CIRCUIT COURT FOR BALTIMORE COUNTY

CIVIL CATEGORY JUDICIAL REVIEW 108/388/95cv3633

ATTORNEYS

PETITION OF: LARRY E. KNIGHT

FOR A JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Peter Max Zimmerman RCCm 47, Old Courthouse 400 Washington Avenue 21204 (Baltimore County)

MICHAEL T. WYATT MARLOW & WYATT 404 Allegheny Ave. Towson, 21204/321-1013

IN THE CASE OF LARRY E. KNIGHT FOR A ZONING RECLASSIFICATION

CASE NO: R-95-137

5/31/96- De +order+0 BOA. CB)

G(1) April 26,1995 Petitioner Larry Knight's Petition for Judicial Review,fd. Copy sent to Agency.

CV GEN COSTS

CKCHE (*) #31353 | (

jc (2) May 2, 1995 Certificate of Notice, fd.

LG(3) May 23,1995 Peoples's Counsel's Response to Petition,fd.

CG (4) July 11, 1995 Transcript of record, fd.

CG (5) July 11, 1995 Notice of Filing transcript, fd. Notice sent. (rec'd 6/23/95)

df (6) July 14, 1995 - Supplement to Record of Proceedings fd. (Filed 6/27/95)

df (7) Aug. 15, 1995 - Petitioner's Memorandum in Support of Petition for Judicial Review fd.

pa* (8) Aug 30 1335 SOMEBULING ORDER, PO (DRA)

PH(9) Sep 11,1995 Memorandum of Peoples Counsel, fd.

January 17,1996 Hon. Thomas J. Bollinger Hearing had Court's written opinion to be filed.

108 388

Page

3633

108

Docket

388 ______ case 95 CV-

CASE NO. 95CV3633 mr (10) May 29, 1996 Opinion and Order of Court Affirming, the decision of the Board in this matter, fd. (TJB)

£

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF LARRY E. KNIGHT 12200 Glynowings Drive Glyndon, Maryland 21117

ITEM #2, Cycle IV, 1994

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Room 49, Old Courthouse 400 Washington Ave., Baltimore, MD 21204

IN THE CASE OF: IN THE MATTER OF
LARRY E. KNIGHT
FOR A ZONING RECLASSIFICATION FROM
S.E. AND D.R. 3.5 TO M.L.-I.M. ON
PROPERTY LOCATED ON THE SOUTHWEST SIDE
GLYNOWINGS DRIVE, OPPOSITE ST. GEORGES
STATION ROAD; ALSO WEST SIDE TIMBER
GROVE ROAD (12200 GLYNOWINGS DRIVE)
4TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
CASE NO. R-95-137

CIVIL ACTION No. 95-CV-03633 /108/388

SUPPLEMENT TO RECORD OF PROCEEDINGS BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Kristine K. Howanski and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, and in answer to the Petition for Judicial Review directed against them in this case, herewith supplement the record filed on June 23, 1995 in Case No. 95-CV-03633, consisting of the following, namely Petitioner's Exhibits as listed:

Petitioner's Exhibit No.

1 -No opposition by Piraro 3-20-95

2 -Letter from Larry Knight to Jim Gede 4~5-93

3 -Undocumented Plan of GWS

4 -Aerial photographs of site 1982-1991

5A -Map w/Zoning Designations

5B -1988 Map w/Zoning Designations

5C -Current Map w/Zoning Designations

6 -CRG

7 -Location Survey (attached to #6)

8 -Photocopy portion of Map D-2
 (current)

RECEIVED APPENDED



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 (410) 887-3180

June 27, 1995

Michael T. Wyatt, Esquire MARLOW & WYATT 404 Allegheny Avenue Towson, MD 21204

> RE: Civil Action No. 95-CV-03633 LARRY E. KNIGHT

Dear Mr. Wyatt:

Enclosed is a copy of the Supplement to Record of Proceedings filed this date in the Circuit Court for Baltimore County to transmit Petitioner's Exhibits (excluding Nos. 9A and 9B which are of a large and bulky nature) which were unavailable on the date the Record of Proceedings was filed.

Very truly yours,

Charlotte E. Radcliffe

Legal Secretary

Enclosure

cc: Larry E. Knight

People's Counsel for Baltimore County

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF LARRY E. KNIGHT 12200 Glynowings Drive Glyndon, Maryland 21117

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Room 49, Old Courthouse 400 Washington Ave., Baltimore, MD 21204 CIVIL ACTION No. <u>95-CV-03633</u> /108/388

IN THE CASE OF: IN THE MATTER OF
LARRY E. KNIGHT
FOR A ZONING RECLASSIFICATION FROM
S.E. AND D.R. 3.5 TO M.L.-I.M. ON
PROPERTY LOCATED ON THE SOUTHWEST SIDE
GLYNOWINGS DRIVE, OPPOSITE ST. GEORGES
STATION ROAD; ALSO WEST SIDE TIMBER
GROVE ROAD (12200 GLYNOWINGS DRIVE)
4TH ELECTION DISTRICT
3RD COUNCILMANIC DISTRICT
CASE NO. R-95-137
ITEM #2, Cycle IV, 1994

PROCEEDINGS BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

TO THE HONORABLE, THE JUDGE OF SAID COURT:

And now come Kristine K. Howanski and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, and in answer to the Petition for Judicial Review directed against them in this case, herewith return the record of proceedings had in the above-entitled matter, consisting of the following certified copies or original papers on file in the Office of Zoning Administration and Development Management and the Board of Appeals of Baltimore County:

ENTRIES FROM THE DOCKET OF THE BOARD OF APPEALS AND OFFICE OF ZONING ADMINISTRATION AND DEVELOPMENT MANAGEMENT OF BALTIMORE COUNTY

No. R-95-137

August 30, 1994 Petition for Zoning Reclassification from S.E. (14.60 acres +/-) and D.R. 3.5 (.04 acre +/-) to M.L.-I.M. (14.64 acres /total) filed by Michael T. Wyatt, Esquire on behalf of Larry E. Knight, Petitioner.

November, 1994 Planning Board Comments.

R-95-137, Larry E. Knight File No. 95-CV-03633/108/388

February 8, 1995 Publication in newspapers.

February 16 Publication in newspapers. (2nd advertisement)

March 16 ZAC Comments.

March 22 Hearing held before the Board; deliberation conducted immediately following conclusion of hearing: Board reached unanimous decision to DENY Petition for Reclassification; written

Opinion and Order to be issued.

April 4 Opinion and Order of the Board that the Petition for Reclassification from S.E. and

D.R. 3.5 to M.L.-I.M. be DENIED.

April 26 Petition for Judicial Review filed in the

Circuit Court for Baltimore County by Michael T. Wyatt, Esquire, on behalf of Larry E.

Knight.

April 27 Copy of Petition for Judicial Review received

by the Board of Appeals from the Circuit Court

for Baltimore County.

May 2 Certificate of Notice sent to interested

parties.

June 23 Transcript of testimony filed.

**Petitioner's Exhibits No. 1 -No opposition by Piraro 3-20-95

2 -Letter from Larry Knight to Jim

Gede 4-5-93

3 -Undocumented Plan of GWS

4 -Aerial photographs of site

1982-1991

5A- Map w/Zoning Designations

5B- 1988 Map w/Zoning Designations

5C- Current Map w/Zoning

Designations

6 - CRG

7 - Location Survey (attached to

#6)

8 -Photocopy portion of Map D-2

(current)

9A & 9B - Photographs of site and surroundings (Nos. 1-20) (IN

CBA CLOSET)

9C-List of Photographic Exhibits

10-Height and Area Regulations

Chart (handwritten)

11-Interoffice Correspondence to Planning Board 4-24-92

**Record filed without above exhibits which were not available as of this date -- to be filed at later date.

People's Counsel Exhibits No. -1A-Request for Zoning Change of Larry Knight 10-31-91

1B-Bronstein Striking appearance on behalf of Mr. Knight

2 -Departmental Comment of DEPRM 4-9-92

3 -Topographical Map -200 scale

4A-Zoning Map - 1000 scale

4B-Zoning Map - 200 scale

5 -1992 Log of Issues, March 1992

6 -Recommendation of Planning Board 6-11-92

7 -Bill 124 - Nonconforming use

8 -Zoning Reclassification Petitions Cycle IV 1-31-95

9 -Nonconforming Bill 46-92

10-Consent Order 4-28-92

11-Memorandum of 1-17-91

June 23, 1995 Record of Proceedings filed in the Circuit Court for Baltimore County.

Record of Proceedings pursuant to which said Order was entered and upon which said Board acted are hereby forwarded to the Court, together with exhibits entered into evidence before the Board. However, all tangible material or evidence of an unwieldy or bulky nature will be retained in the Board of Appeals' office and upon request of the parties or the Court will be transmitted to the Court by whomever institutes the request.

Respectfully submitted,

Charlotte E. Radcliffe

Legal Secretary

County Board of Appeals of Baltimore County, Room 49, Basement - Old Courthouse 400 Washington Avenue

Towson, MD 21204 (410) 887-3180

cc: Michael T. Wyatt, Esquire

Larry E. Knight

People's Counsel for Baltimore County

PETITION OF LARRY E. KNIGHT

FOR JUDICIAL REVIEW OF THE

DECISION OF THE COUNTY BOARD OF

APPEALS OF BALTIMORE COUNTY

IN THE OURT COUNTY
FOR BALTIMORE COUNTY

ASE 195, CV, 08633

OPINION AND ORDER

This case comes before the Court for judicial review of the decision of the Baltimore County Board of Appeals (hereinafter referred to as the "Board").

Two questions are presented for the Court's consideration, which can be consolidated into one: Did the Board err in finding that the County Council correctly reclassified the Petitioner's property from M.L.-I.M. zoning to S.E. and D.R.3.5 during the 1992 Comprehensive Map Process. The simple answer to this consolidated question is no, it did not.

The Court has heard argument of counsel and reviewed all of the documents and fine memoranda of both sides and finds that the Board did not commit error upon its review of the Baltimore County Council reclassification of the subject property. The Court can well understand the problems he created for himself by his request for reclassification and legal representation at that time. (Not present counsel who has supplied an excellent memorandum on this matter). The Court, however, is not here for equitable relief in this judicial review but only to determine whether the Board, in its limited review of the Counsel's legislative judgment, had sufficient evidence before it to sustain its findings.





This Court finds that the classification of the subject property as articulated is fairly debatable and thus must be upheld.

Therefore, on this 222 day of May, 1996, by the Circuit Court for Baltimore County, the decision of the Board in this matter is hereby AFFIRMED.

THOMAS J. BOLLINGER, JUDGE

TJB/am

cc: Michael T. Wyatt, Esquire Marlow & Wyatt 404 Allegheny Avenue Towson, MD 21204

> Peter Max Zimmerman, Esquire Office of the People's Counsel Room 47 Courthouse Towson, MD 21204

IN THE CIRCUIT COURT FOR BALTIMORE COUNTY

PETITION OF LARRY E. KNIGHT 12200 Glynowings Drive Glyndon, Maryland 21117

FOR JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Room 49, Old Courthouse 400 Washington Ave., Baltimore, MD 21204

CIVIL ACTION No. 95-CV-03633 /108/388

IN THE CASE OF: IN THE MATTER OF LARRY E. KNIGHT
FOR A ZONING RECLASSIFICATION FROM S.E. AND D.R. 3.5 TO M.L.-I.M. ON PROPERTY LOCATED ON THE SOUTHWEST SIDE GLYNOWINGS DRIVE, OPPOSITE ST. GEORGES STATION ROAD; ALSO WEST SIDE TIMBER GROVE ROAD (12200 GLYNOWINGS DRIVE) 4TH ELECTION DISTRICT 3RD COUNCILMANIC DISTRICT CASE NO. R-95-137

CERTIFICATE OF NOTICE

Madam Clerk:

Pursuant to the provisions of Rule 7-202(e) of the Maryland Rules of Procedure, Michael B. Sauer, Kristine K. Howanski, and Harry E. Buchheister, Jr., constituting the County Board of Appeals of Baltimore County, have given notice by mail of the filing of the Petition for Judicial Review to the representative of every party to the proceeding before it; namely, Michael T. Wyatt, Esquire, MARLOW & WYATT, 404 Allegheny Avenue, Towson, MD 21204, Counsel for Petitioner; Larry E. Knight, 12200 Glynowings Drive, Glyndon, MD 21117, Petitioner; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, Old Courthouse, 400 Washington RECEIVED AND FILED

TALLER OF SELECT

hereto and prayed that it may be made a part hereof.

Charlotte E. Radcliffe

Legal Secretary

County Board of Appeals, Room 49 -Basement Old Courthouse, 400 Washington Avenue Towson, MD 21204 (410) 887-3180

I HEREBY CERTIFY that a copy of the foregoing Certificate of Notice has been mailed to Michael T. Wyatt, Esquire, MARLOW & WYATT, 404 Allegheny Avenue, Towson, MD 21204, Counsel for Petitioner; Larry E. Knight, 12200 Glynowings Drive, Glyndon, MD 21117, Petitioner; and Peter Max Zimmerman, PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, Room 47, Old Courthouse, 400 Washington Avenue, Towson, MD 21204, this 28th day of April, 1995.

Charlotte E. Radcliffe

Legal Secretary

County Board of Appeals, Room 49 -Basement Old Courthouse, 400 Washington Avenue Towson, MD 21204 (410) 887-3180



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 (410) 887-3180

April 28, 1995

Peter Max Zimmerman
People's Counsel
for Baltimore County
Room 47, Old Courthouse
400 Washington Avenue
Towson, MD 21204

RE: Civil Action No. 95-CV-03633 LARRY E. KNIGHT

Dear Mr. Zimmerman:

Notice is hereby given, in accordance with the Maryland Rules of Procedure, that a Petition for Judicial Review was filed on April 26, 1995 in the Circuit Court for Baltimore County from the decision of the County Board of Appeals rendered in the above matter. Any party wishing to oppose the petition must file a response within 30 days after the date of this letter, pursuant to Rule 7-202(d)(2)(B).

Please note that any documents filed in this matter, including, but not limited to, any other Petition for Judicial Review, must be filed under Civil Action No. 108/338/95-CV-03633.

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe

Legal Secretary

Enclosure

CC: Pat Keller
Lawrence E. Schmidt
W. Carl Richards
Docket Clerk /ZADM
Arnold Jablon /ZADM



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 (410) 887-3180

April 28, 1995

Michael T. Wyatt, Esquire MARLOW & WYATT 404 Allegheny Avenue Towson, MD 21204

RE: Civil Action No. 95-CV-03633 LARRY E. KNIGHT

Dear Mr. Wyatt:

In accordance with Rule 7-206(c) of the Maryland Rules of Procedure, the County Board of Appeals is required to submit the record of proceedings of the petition for judicial review which you have taken to the Circuit Court for Baltimore County in the above-entitled matter within sixty days.

The cost of the transcript of the record must be paid by you. In addition, all costs incurred for certified copies of other documents necessary for the completion of the record must also be at your expense.

The cost of the transcript, plus any other documents, must be paid in time to transmit the same to the Circuit Court within sixty days, in accordance with Rule 7-206(c).

Enclosed is a copy of the Certificate of Notice which has been filed in the Circuit Court.

Very truly yours,

Charlotte E. Radcliffe

Legal Secretary

Enclosure

cc: Larry E. Knight

George William Stephens, Jr.

and Associates

PETITION OF:

LARRY E. KNIGHT 12200 Glynowings Drive Glyndon, Maryland 21117

FOR A JUDICIAL REVIEW OF THE DECISION OF THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY Old Courthouse, Room 49 400 Washington Avenue Towson, Maryland 21204

IN THE CASE OF LARRY E. KNIGHT FOR A ZONING RECLASSIFICATION Case No: R-95-137

95 APR 27 PH 2: 1.1

CIRCUIT COURT

FOR

BALTIMORE COUNTY

Case No: 108 | 385 | 950 V36

* * * * * * * * *

PETITION FOR JUDICIAL REVIEW

LARRY E. KNIGHT, Petitioner, by his attorney, Michael T. Wyatt, pursuant to Maryland Rule 7-201 et seq., hereby files this petition requesting judicial review of the above-captioned matter. The particulars of the present petition are as follows:

- 1. That Petitioner was a party to a zoning reclassification matter before the County Board of Appeals of Baltimore County.
- 2. That Petitioner's zoning reclassification request was denied by virtue of a final opinion and order dated April 4, 1995 by the County Board of Appeals.
- 3. That Petitioner seeks review of that opinion and order by this Honorable Court.

RECEIVED AND FILED 95 APR 26 ANTH: 12

PARTY OF SHOWING COLOR

Michael T. Wyatt Marlow & Wyatt 404 Allegheny Avenue Towson, Maryland 21204 (410) 821-1013

Attorney for Petitioner

a:knight.ptn 4-26-95 cfw Circuit Court for Baltimore County

CIVIL—NON-DOMESTIC CASE INFORMATION SHEET

A copy must be included for each defeation on the case will commence and Defendant: You must complete both	ust be completed and attached to the conendant to be served. NOTE: If this inform the complaint may be subject to dismissation portion on page 2 and file with you sponse. Failure to file this form will be d	nation sheet is not completed, no l. ranswer. This Information Sheet eemed to be an agreement with the
PLAINTIFF'S ATTORNEY'S NAME:	Vynowings Drive Blyade Michael T. Wyoth PHO	ONE: (<u>)</u> ONE: (<u>410</u>) 821.1013
ATTORNEY'S ADDRESS: 404 A lam not represented by an attorney JURY DEMAND: Yes No RELATED CASE PENDING? Yes	Alleghemy Avenue Towson	
Is there any reason ADR is not advisable?	V	
SPECIAL ADA REQUIREMENTS?	NATURE OF ACTION	iei ADA accommodation
	NATURE OF ACTION	REAL PROPERTY
	Klacat Add American Specification	
PERSONAL INJURY/with or without	PROPERTY DAMAGE ONLY	Ejectment/Title Dispute
property damage	Motor Tort	Breach of Lease Mechanic's Liens
Motor Tort	Product Liability	Mortgage Foreclosure
Personal Injury	OTHER TORTS	Specific Performance
Assault & Battery	Business Torts	Condemnation
Product Liability Professional Malpractice	Libel & Slander	Other Real Property
Other	Other Intentional Tort	The second secon
		DISTRICT COURT/ADMVE AGEN
CONTRACT	MISCELLANEOUS	☐ District Court Appeal
☐ Insurance	Adoption/Guardianship	Record De Novo
Other Contract	Other	Jury Trial Prayer
Confessed Judgment Note		Appeal from Admin Agency
	REQUESTED	Other Balf Co Bd of Appe
Damages \$	Injunction/Other Equitable Relief	77. /
Declaratory Relief	Other: (please specify) Zoning	r Reclass.

CIRCUIT COURT FOR BALTIMORE COUNTY CIVIL NON-DOMESTIC CASE INFORMATION SHEET

Case Name: Kndg ht v.		റം	se No.:
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Nature of Action (Continued):	•		(Citiz to pactify
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(other than Worker's Compensation Cases)		Toxic Tort Clair	ms
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Track Assignment Requested (See Reverse Side			,
☐ Expedited (Trial Date - 90 days)	L. Extended S	tandard (Trial Di	ate - 345 days)
Standard (Trial Date - 240 days)	□ Complex (frial Date - 450	days)
Do you plan to consolidate this-case?	12 No Case	No.:	
Provide any vacation dates that may conflict in sche	duling the settlen	nent conference (30 days prior to trial) and trial
date:			•
Briefly describe why this case should be assigned	to a track other	than the Standard	d Track:
Relief Sought:	To D	ate!	Anticipated:
Medical Expenses	•	4101	**************************************
Other Damages (lost wages, contracts, etc.)	\$		*
Are monetary damages for one of the following?	☐ Death	☐ Personal-In	Property
Are you making a claim for punitive damages?	☐ Yes Ø No		jury Deroperty
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Witnesses:		F	Pecond Appeal
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Will there be out-of-state witnesses or parties in the	uis case? Ye	t [] No	
Plaintiff's Certification:			
hereby certify that I have accurately provided	the above infor	mation to the bea	st of my ability
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M.M. Klad		Mekan	To Went
Signature of Plaintiff's Counsel/Party	Date	Print Name	
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Defendant's Certification:			
If I am the Defendant or the Defendant's Counsel, I	concur with Pla	intiff's Informatic	on Sheet:
If "No", you must file a separate information sheet	t or state basis o	f disagreement,	
concur except as follows:	··· <u>·</u>	· += <u>**</u> · - · · · · · · · · · · · · · · · · · ·	
I plan to file:	ss Complaint	☐ Third Party	Complaint
1 am not represented by counsel.			
1 hereby certify that I have accurately provided	the above inform	vation to the best	of my ability. I also certify
that if I am the Defendant or the Defendant's Count	sel in the case, a	nd I have request	ed a track for this case other
than the track requested by the Plaintiff, that a copy	of this documen	has been forward	ded to the Court (Case Track
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,		☐ Expedited	□ Extended Standard

Page 2 of 2

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County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 (410) 887-3180

April 4, 1995

Michael T. Wyatt, Esquire 404 Allegheny Avenue Towson, MD 21204

RE: Case No. R-95-137

Larry E. Knight -Petitioner

Dear Mr. Wyatt:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Very truly yours,

Kathleen C. Weidenhammer Administrative Assistant

Enclosure

CC: Mr. Larry E. Knight
 George William Stephens, Jr.
 and Associates
 Mr. James Earl Kraft
 People's Counsel for Baltimore County
 P. David Fields
 Lawrence E. Schmidt
 W. Carl Richards, Jr. /ZADM
 Docket Clerk /ZADM
 Arnold Jablon, Director /ZADM

· R.95-137



COUNTY EDAM OF APPEALED

Petition for Reclassification

to the Board of Appeals of Baltimore County for the property located at 12200 Glynowings Drive

OTHER

REVIEWED BY:

	tionare even mana a ban marach ustably bening (1) institue sould	ration & Development Management. nore County and which is described in the description and plat attached g status of the herein described property be reclassified, pursuant to the
	S.E. & D.R. 9.5	an ML/IM zone for the reasons given in the etteched statemen
K to file	and (3) for the reasons given in the attached statement, a variance County:	e from the following sections of the Zoning Regulations of Baltimore
57 °		,
	Property is to be posted and advertised as prescribely or we, agree to pay expenses of above Special Exception adverse to be bound by the zoning regulations and restrictions of Balti	ped by Zoning Regulations. enleing, poeting, etc., upon filing of this petition, and further agree to an imore County adopted pursuant to the Zoning Law for Baltimore County
		We do selemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Pelulion.
	Contract Purchaser/Lessee:	Legal Owner(s):
	(Type or Print Name) Bignature	Larry E. Knight (Type or Brint Name) Glass Company Glass Company
•		
•	Address	(Type or Print Name)
	City State Stocode	Signature
	Attorney for Petitioner:	12200 Glynowings Drive Address Phone No.
	Michael T. Wyatt (Type or Print Name)	Glyndon, Maryland
	(17) to or ring (1800)	City State Zipcode Name, Address and phone number of legal owner, contract purchaser or representativo to be contacted.
•	Signature	Michael T. Wyatt
	404 Allegheny Avenue (410) 821-1013 Addiese Phone No.	404 Allegheny Avenue (410) 821-1013 Address Phone No.
	Towson, Maryland 21204 Gity State Zipcode	OFFICE USE ONLY
98 :	OI WA OS JUA 46	ESTIMATED LENGTH OF HEARING unavailable for Hearing

•R-95-137

STATEMENT IN SUPPORT OF PETITION FOR RECLASSIFICATION

The 14.64 acre parcel known as 12200 Glynowings Drive was zoned S.E. in 1992. Previous to that, the subject property was zoned M.L. - I.M.

The 1992 change in zoning was the end result of Petitioner's request to rezone the property from M.L. - I.M. to DR - 16.

Instead of denying that request, the Board recommended to bring the property into the then-new S.E. zone.

The property has prior C.R.G. approval under M.L. - I.M. criteria and non-conforming status. No change in use is anticipated. The owner of the property seeks reclassification from S.E. to its prior M.L. - I.M. designation based upon the non-conforming status and mistake in the previous rezoning.

P-95-137

FROM THE OFFICE OF GEORGE WILLIAM STEPHENS, JR., & ASSOCIATES, INC. ENGINEERS

658 KENILWORTH DRIVE, SUITE 100, TOWSON, MARYLAND 21204

Description to Accompany a

Zoning Petition for Reclassification

August 25, 1994

RE: #12200 Glynowings Drive

Beginning at a point located on the west side of Glynowings Drive and north 52½° west± 250 feet more or less from point of intersection of the centerlines of Glynowings Drive and St. Georges Station Rd., thence in a clockwise direction:

- 1. South 44° 03' 54" East 381.94 feet±
- 2. South 44° 03' 54" East 3.48 feet±
- 3. A curve to the left, having a radius of 1035.00 feet±; length of 225.06 feet± and a chord South 50° 17' 40" East 224.62 feet±
 - 4. South 40° 38' 57" East 979.16 feet#
- 5. A curve to the left, having a radius of 1030.00 feet±; length of 384.86 feet± and a chord South 33° 12' 56" West 382.14 feet±
 - 6. South 22° 31' 31" West 41.85 feet±
- 7. A curve to the right, having a radius of 3892.13 feet±, a length of 143.92 feet± and a chord North 41° 43' 00" West 143.81 feet±
 - 8. North 40° 39' 46" West 1545.93 feet#
- and 9. North 45° 56' 06" West 347.50 feet to the place of beginning.

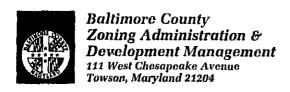
Containing 14.64 Acres of land more or less

(This is for zoning purposes only and not intended to be used in conveyances or agreements.)



CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY Townen, Maryland

District	Date of Posting 3/3/25
Posted for: Re Cless, Fice tion	Date of Posting
Petitioner: Farry F. Km	ight
Location of property: 12200 6/4	newring Drixe, sws
Location of Signs: Tacarry 200	dwg on proporty being zoned
Remarks:	
Posted by Signature	Date of return: 3/10/95
Number of Signat	





Account: R-001-6150

Number

ITEM #2, CYCLE IV (MJK)
CASE #CR-95-137

8/29/94

#074 - RECLASSIFICATION PETITION ----- \$1,250.00 #080 - SIGN POSTING ----- 35.00

TOTAL ----- \$1,285.00

Larry E. Knight

12200 Glynowings Drive Zoning: S.E. & D.R.-3.5

District: 4c3

Acres: 14.64 +/-

Attorney: Michael Wyatt

PAID BY SMALL RECEIPT #150411

Please Make Checks Payable To: Baltimore County

	ELLANEOUS CASH RECEIPT
DATE_	-101/04 ACCOUNT 001-10181
, -	AMOUNT \$ 1,2.85. 67 (19.8%)
RECEIV	Larry E. Knight
L	17 74 - R. class Petition
FOR:	12200 Glynowings Drive
	3. E. + DR 3 Harry Market Born m. 1819-280 . Clar



111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

MARCH 1, 1995

Larry Knight 12200 Glynowings Drive Glyndon, MD 21071

Re: CASE NUMBER: R-95-137

12200 Glynowings Drive

SW/S Glynowings Drive, opposite St. Georges Station Road; also W/S

Timber Grove Road

4th Election District - 3rd Councilmanic District

Legal Owner: Larry E. Knight

Dear Mr. Knight:

Attached you will find a copy of the newspaper advertising billing in the amount of \$4,750.20 with regard to Zoning Reclassification - Cycle IV. As on of the petitioners in that cycle, you are in part responsible for payment of this bill.

Please forward to this office a check made payable to Patuxent Publishing in the amount of \$950.04 via immediate return mail.

PAID IN FULL.

Non-payment of fees will hold your case in abeyance. If you have any questions regarding this letter, you may contact Ms. Gwen Stephens at 887-3391.

Sincerely,

ARNOLD JABLON-

DIRECTOR

cc: Michael T. Wyatt, Esq.

AJ:gqs

Printed with Soybean Ink on Recycled Paper



County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49 400 WASHINGTON AVENUE TOWSON, MARYLAND 21204 (410) 887-3180

November 14, 1994

NOTICE OF HEARING

CASE NUMBER: R-95-137 12200 Glynowings Drive

SW/S Glynowings Drive, opposite St. Georges Station Road; also W/S Timber

Grove Road

4th Election District - 3rd Councilmanic District

Legal Owner: Larry E. Knight

HEARING: WEDNESDAY, MARCH 22, 1995 @ 10:00 a.m. ROOM 48, County Board of

Appeals Hearing Room, 400 Washington Avenue Towson, Md

Petition to change zoning classification from S.E. & D.R.-3.5 to M.L.-I.M.

WILLIAM T. HACKETT, CHAIRMAN

COUNTY BOARD OF APPEALS

cc: Larry E. Knight Michael T. Wyatt

CIRCUIT COURT FOR BALTIMORE COUNTY NOTICE OF CIVIL TRACK ASSIGNMENT AND SCHEDULING ORDER

MINE, T	, watt, ra.	
理時間 2017 1	ZEMWEN, YSO.	Assignment Date: A/3405 Case Name: PEFFERE OF LARRY E. KNIEW
HAM) OF ANTENES OF PAUJO (I).		Case No.: NI WWY OF CV 3613
ANAMOU IN' I	RESERVE CO. IMPLO CO.	
to cor voi ple	be called on behalf of that party need an a stact the Court Administrator's Office at (4 ice/TDD M.D. Relay Service, 800-735-2258 ase contacts NARA SANTAS at ys of the receipt of this Order as to any of	DITED TRACK. If you, a party represented by you, or a witness accommodation under the Americans with Disabilities Act, please 10) 887-2687 or use the Court's TDD line, (410) 887-3018, or the 3. Should you have any questions concerning your track assignment, (410) 887-3018. You must notify this Coordinator within 15 conflicts with the following dates:
1.		2-322(b) are due by
2.	Plaintiff's Expert Reports or Md. Ru	e 2-402(e)(1)
3.	Defendant's Expert Reports or Md. F	
4.		
5.		imine) are due by
6.	The Settlement Conference (District Prayers Only) is	Court Jury Trial
7,	The TRIAL DATE is Appended 1. It (Note: This is a firm trial date. No counsel/parties concerning this date.)	subsequent notice will be forwarded to

PARIMRA RESP. EYER:
Signature

<u>Postponement Policy</u>: No postponements of dates under this order will be approved except for undue hardship or emergency situations. All requests for postponements must be submitted in writing with a copy to all counsel/parties involved. All requests for postponements of cases filed after October 1, 1994 must be approved by the Administrative Judge.

Settlement Conference (Room 507); All counsel and their clients MUST attend the settlement conference in person. All insurance representatives MUST attend this conference in person as well. Failure to attend may result in sanctions by the Court. Settlement hearing dates may be continued by Settlement Judges as long as trial dates are not affected. (Call [410] 887-2920 for more information.)

Court Costs: All Court costs MUST be paid on the date of the settlement conference or trial.

62 : 1 Nd 1- d38 96

cc: Counsel/Parties, File, Assignment, dcmc1, Rev. 12/21/94/30 by the many training



The Circuit Court for Baltimore County

THIRD JUDICIAL CIRCUIT OF MARYLAND

THOMAS J. BOLLINGER
JUDGE

COUNTY COURTS BUILDING TOWSON, MARYLAND 21204 (410) 887-2693 TDD (410) 887-3018

November 30, 1995

Michael T. Wyatt, Esquire Marlow & Wyatt 404 Allegheny Avenue Towson, MD 21204

Peter Max Zimmerman, Esquire Office of the People's Counsel Room 47 Courthouse Towson, MD 21204

> Re: Knight v. Baltimore County Board of Appeals Case No. 95 CV 03633

Dear Counsel:

This will confirm the rescheduling this date of the appeal hearing in the referenced case on January 17, 1996 at 9:45 a.m. before Judge Bollinger. Please check with the first floor Information Desk on that date to determine the courtroom in which this hearing will be held.

Very truly yours,

Angela Miller

Secretary to Judge Bollinger

/am

cc: Balto. Co. Board of Appeals Central Assignment Office Civil Assignment Office Court file

1611 - 162025

١.



111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

March 16, 1995

Michael T. Wyatt, Esquire 404 Allegheny Avenue Towson, Maryland 21204

> Item No. 2 RE:

> > Case No. R-95-137

Petitioner: Larry E. Knight Reclassification Petition

Dear Mr. Wyatt:

This reclassification petition has been timely filed with the Board of Appeals for a public hearing within the Oct. - Nov. reclassification cycle (Cycle IV,). It has been reviewed by the zoning office as to form and content and has also been reviewed by the Zoning Advisory Committee (ZAC). The enclosed comments from the committee are intended to provide you and the Board of Appeals with an insight as to possible conflicts or problems that could arise from the requested reclassification or uses and improvements that may be specified as part of the request. They are not intended to indicate the appropriateness of the zoning action requested.

If it has been suggested that the petition forms, descriptions, briefs, and/or the site plans be amended so as to reflect better compliance with the zoning regulations and/or commenting agencies' standards and policies, you are requested to review these comments, make your own judgment as to their accuracy and submit the necessary amendments and revision fee to this office as soon as possible. After the first public newspaper advertisement (April 16th - May 31st) or (October 16th - November 30th), the petition (including any documentation relating to the proposed use) may only be amended in an open hearing before the Board of Appeals. If the submitted site plan does not indicate a proposed use at this time, the comments from this committee are general in nature.

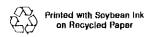
If you have any questions concerning the enclosed comments, please contact the zoning office at 887-3391 or the commenting agency.

W. Con Reduce of

W. CARL RICHARDS, JR.

Zoning Supervisor

WCR: jaw Enclosures



BALTIMORE COUNTY, MARYLAND DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT INTER-OFFICE CORRESPONDENCE November 25. 1994 TO: Mr. Arnold Jablon, Director Zoning Administration and Development Management J. Lawrence Pilson FROM: Development Coordinator, DEPRM Zoning Item #R-95-137 SUBJECT: 12200 Glynowings Drive Zoning Advisory Committee Meeting of October 24, 1994 The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item. Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains. There is the potential for wetlands to exist on this site. Development of the property must comply with Regulations for Forest Conservation. There has been a long history of acrimmonious contention between Larry Knight Inc., and its residential neighbors. Although there have been no recent complaints since Larry Knight Inc. was assessed civil penalties as the result of an Administrative Law Hearing in late 1992, changing the zoning status from SE and DR3.5 to ML/IM may be inviting a recurrence of environmental violations, particularly for airborne particulate and noise. This is almost always the case when industrial zoning is immediately adjacent to residential zoning. It should also be pointed out that the County's ability to respond to, and enforce, such violations has been reduced. The Department would need to see a documented site plan showing the proposed use/development of the property in order to make a thorough evaluation and determination of the potential effects upon the neighboring residential areas. If there are any questions, applicant may contact Dave Filbert at 887-3775. JLP:VK:SR:sp GLYNOWIN/DEPRM/TXTSBP



Maryland Department of Transportation State Highway Administration

O. James Lighthizer Secretary

Hal Kassoff Administrator

10-21-94

Ms. Julie Winiarski
Zoning Administration and
Development Management
County Office Building
Room 109
111 W. Chesapeake Avenue
Towson, Maryland 21204

Re: Baltimore County

Item No .: #2, CYCLE IV

CASE NO: R-95-137

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours, Bob Small

David Ramsey, Acting Chief Engineering Access Permits

Division

BS/

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: October 31, 1994 Zoning Administration and Development Management

FROM Robert W. Bowling, Chief Developers Engineering Section

RE:

Zoning Advisory Committee Meeting for Zoning Reclassification Cycle IV October 1994 -April 1995

The Developers Engineering Section has reviewed the subject zoning items and we have no comments for Item 5.

For Item 1 see Developers Engineering Section file titled "Chartley Buildings - #605 Reisterstown Road" for approved County Review Group Plan and comments dated 3-14-91 for this site.

For Item 2) show a 10-foot revertible slope easement along the future 60-foot right-of-way for Timber Grove Road and along the Glynowings Drive 70-foot right-of-way. For additional information see the Developers Engineering Section's file titled "St. Georges Industrial Park Addition."

For Item 3, this site is subject to the Baltimore County Development Regulations for a residential development.

For Item 4, per the recorded Spring Hill (53/96) record plat there is an existing County drainage and utility easement, 10 feet wide, running the length of the west property line of 3814 East Joppa Road. Also, there is no existing easement for ingress or egress shown on the recorded plat of the Spring Hill subdivision for this property.

RWB:a

Baltimore County Government Fire Department



700 East Joppa Road Suite 901 Towson, MD 21286-5500

(410) 887-4500

DATE: 10/26/04

Annold Jabion
Director
Zoning Administration and
Development Management
Baltitone County Office Building
Towson, NO 21204
MAIL STOP-1105

RE: Property Owner: SIE BELOW

".CCATION: RECALLIFICATION AND REDISTRICTING PETITIONS NORE COPY 10/14/54, CUCLE IV OCT. 1994 APR. 1995

Then Nour CEE BLICK

Zoning Agendas

Gmotionen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the doments below are applitable and required to be corrected or incorporated into the final plans for the property.

8. The Fire Marchal's Office has no comments at 15th time.
IN REPERENCE TO THE "OLLOWING ITEM NUMBERS: 1. (2) 3. + 400 5.

OCT 28 1994

ZADM

AMVIELER: LY. GOMERT P. TALMAUELO Fire Marshar Trolace, Phone 887-4881, pre-1109F

CON STA



Printed on Recycled Paper

RE: PETITION FOR RECLASSIFIES SW/S Glynowings Drive,	CATION		*		BEFORE	THE		
opposite St. George's Static	on Road	;	*		BOARD	OF APP	PEALS	
also W/S Timber Grove Road (12200 Glynowings Drive)			*		OF BAI	T'IMORE	COUNT	Y
4th Election District 3rd Councilmanic District			*		Case N	lo. R-9	5-137	
Larry E. Knight			*					
Petitioner * * * * *	*	*	*	*	*	*	*	*

ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County

aule S. Semilio

Peter Max Zimmerman

CAROLE S. DEMILIO

Deputy People's Counsel Room 47, Courthouse 400 Washington Avenue Towson, MD 21204 (410) 887-2188

CERTIFICATE OF SERVICE

Peter Max Zimmerman

BALTIMORE COUNTY, MARYLAND Inter-Office Correspondence

TO:

File

January 17, 1991

FROM:

Gregory J. Franzoni, Sr. #974.

SUBJECT: ADMINISTRATIVE HEARING LARRY E. KNIGHT, Inc.

On Thursday, January 17, 1991 at 9:30 AM, the principals in the enforcement case involving Larry E. Knight, Inc. met at the offices of the Air Management Administration located at 2500 Broening Highway, Baltimore, Maryland 21224 for the purpose of convening an Administrative Hearing. Present from the State of Maryland were Assistant Attorney General Jeffrey E. Howard, Michael J. Caughlin, and Steven G. Lang. Representing Baltimore County were Gregory J. Franzoni, Sr. and S. David Ross. The company was represented by Larry E. Knight, Sr., Larry E. Knight, Jr, and their attorney, Mr. Gitter.

Following several conferences among attorneys and the Knights, the company agreed to settle the case for \$1500 vs. \$3000 assessed, payable in three (3) monthly installments commencing in February, 1991. The hearing officer read the settlement into the official hearing record and indicated that a full hearing would be convened should Mr. Knight default on any of the payments. Following this statement, the hearing was adjourned.

GJF:pms

Larry E. Knight

16

May 29, 1996

No.	R-	95-	- 1	3	7
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Petition for Zoning Reclassification from S.E. August 30, 1994 (14.60 acres +/-) and D.R. 3.5 (.04 acre +/-)to M.L.-I.M. (14.64 acres /total) filed by Michael T. Wyatt, Esquire on behalf of Larry E. Knight, Petitioner. November, 1994 Planning Board Comments. Publication in newspapers. February 8, 1995 February 16 Publication in newspapers. (2nd advertisement) March 16 ZAC Comments. Hearing held before the Board; deliberation March 22 conducted immediately following conclusion of hearing: Board reached unanimous decision to DENY Petition for Reclassification; written Opinion and Order to be issued. April 4 Opinion and Order of the Board that the Petition for Reclassification from S.E. and D.R. 3.5 to M.L.-I.M. be DENIED. Petition for Judicial Review filed in the April 26 Circuit Court for Baltimore County by Michael T. Wyatt, Esquire, on behalf of Larry E. Knight. Copy of Petition for Judicial Review received April 27 by the Board of Appeals from the Circuit Court for Baltimore County. Certificate of Notice sent to interested May 2 parties. June 23 Transcript of testimony and Proceedings filed in the Circuit Court for Baltimore County. Supplement to Record of Proceedings filed in the CCt to transmit June 27 Petitioner's exhibits (excluding Nos. 9A & 9B - bulky/in CBA closet) which were unavailable on date record was filed.

Opinion and Order issued by the CCt; decision of CBA

was AFFIRMED (Thomas J. Bollinger, J.)

Case No. R-95-137

Larry E. Knight /Petitioner

^{3/22/95 -}Hearing held before Board (S.K.B.); deliberation conducted immediately following conclusion of hearing; Board reached unanimous decision to deny Petition for Reclassification; written Opinion and Order to be issued; appellate period to run from date of written Order.

Case No. R-95-137 Larry E. Knight, Petitioner

3/07/95 -T/C from Michael Wyatt, Counsel for Petitioner; Petitioner will be out of town on scheduled date of hearing (3/22/95); however, Mr. Wyatt will proceed on his behalf; all witnesses are available; Mr. Knight's son (also Larry Knight) will be present; has power of attorney should same be needed.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

MINUTES OF DELIBERATION

Larry E. Knight -Petitioner TN THE MATTER OF:

Case No. R-95-137

March 22, 1995 /at conclusion of hearing DATE

Michael B. Sauer, Acting Chairman (MBS) BOARD / PANEL

(KKH) Kristine K. Howanski

Harry E. Buchheister, Jr. (HEB)

Kathleen C. Weidenhammer SECRETARY

Administrative Assistant

Those present included Michael T. Wyatt, Esquire, on behalf of Petitioner, and Peter M. Zimmerman, People's County for Baltimore County.

--to deliberate matter of Petition PURPOSE Reclassification; testimony and evidence taken this date. Opinion and Order to be issued by Board setting forth written findings of fact.

Opening statement by Acting Chairman Sauer: Let the record show that on today's date, evidence and testimony was taken in this Case a Petition to change the zoning R-95-137, which is classification for the subject site from S.E. and D.R. 3.5 to M.L.-This Board's response and position as to deliberation is as follows.

MBS: After having heard all testimony and evidence in case, is of opinion that the County Council in 1992 did not commit any error or mistake in the rezoning of this property to the S.E. zoning classification designation; did not like the fact that when that was done, that would in effect take a use, which is a concrete manufacturing plant, and put it in the status of being a nonconforming use, after the passage of the comprehensive zoning for the entire area. But am persuaded by Zimmerman's arguments that it must necessarily and logically follow that, when a classification is changed and there is a particular use, that use is going to become nonconforming; that it is appropriate and can be appropriate for County Council to make a zoning change when the test is compatibility with the surrounding area; no doubt that evidence supports significant change in the area; unfortunate that the law is such that Petitioner filed the Petition asking for D.R. 16 and he, so to speak, opened the door, and it puts the site at issue for consideration by the Council, which in Also unfortunate that evidence seems to fact was done. establish that there has been a lack of communication between the property owner and the County, although testimony is uncontradicted that Counsel for Petitioner did meet with councilman for that district on October 7, 1992 and that the vote took place approximately a week later, on October 15,

Minutes of Deliberation /Larry E. Knight, R-95-137

1992. As Mr. Dillon testified, if they met, they talked about this subject matter, and the evidence does show that at that time the recommendation had already been made, and was in print that the County was suggesting the S.E. zone.

The burden of proof the Petitioner carries, and I point this out to the property owner, is an extremely high burden of proof to meet. There is presumption of validity, and it must be shown that the action taken by the Council in zoning the property was in error or done out of mistake or without any full knowledge of circumstances that existed at that particular time. Fortunately we have the amendment to the nonconforming use law which is beneficial to the property owner in the event that there would be a loss or destruction of the property - he would be able to rebuild the building structures.

We have expert testimony of Mr. Dillon and the evidence does support a finding that the S.E. use is not inappropriate, and is not an unreasonable use and that it is compatible with the surrounding neighborhood. In this particular case, feels as if hands are tied in that law must be followed and presumption of validity must be afforded to the County Council; persuaded by Mr. Dillon's testimony, and all experts who testified and accurately described the area and the surrounding zones. Other sites in the community, and really there is contradiction from testimony, are in harmony and unison, and taking that into consideration, cannot conclude that County Council designation of S.E. zoning was inappropriate. Cannot second guess the judgement of the Council; opinion as Board member that the zoning should remain as designated in the process in 1992; Petitioner, if he wants to seek a change, should seek it through the 1996 Comprehensive Map Process, to be reviewed under that procedure, since believes that relief cannot come from Board today.

KKH: Decision turns largely on the burden of proof; am of equal mind; however, Board is constrained to defer to the County Council's opinion; believes there was no mistake by Baltimore County in 1992, at least as mistake was intended in that provision; is persuaded that the requested zoning was not unwarranted, particularly in light of the ameliorative effect of nonconforming use bills; was also persuaded that the trend has been away from industrial use and toward residential; if zoning is to be effective, County Council has to look at what's happening in neighborhoods, and did look at what was happening in this Glyndon /Owings Mills neighborhood. Finds from the testimony that were the Board looking at new building, it would no longer be appropriate use; suspects that even if Board was looking at it in a new way, that had a new buyer sought a variance or reclassification, Board would have Whether it happened been confronted with same issues. procedurally because Petitioner failed to remove motion or

Minutes of Deliberation /Larry E. Knight, R-95-137

whether new buyer sought, would be the same; that's not to say there is anything to stop Petitioner from being involved and taking another crack at the 1996 Comprehensive Zoning Map Process.

difficult part of hearing has been arriving HEB: Most reasonable, honest viewpoint in consideration of the most excellent testimony heard from the Petitioner, beginning with Mr. Knight. However, feels the S.E. zone under existing use can continue indefinitely for many, many years; perhaps unfortunate assumptions were made by County officials and Mr. Knight's representatives in the ongoing matter of this reclassification; but also thinks that the Council did not make mistake in 1992; Comprehensive zoning places emphasis on the interests and welfare of the public; if this nonconforming use exists, it seems most proper that any new alternate commercial use be appropriate to the immediate neighborhood; the S.E. zone serves the Petitioner's present use and interests, while it satisfies the fact that the community concerns and needs will be considered in any future use. Therefore, believes that the present classification should remain S.E.

Closing statement by Acting Chairman Sauer; that concludes Board's deliberation; all three members are in unison in their decision that the Petition for Reclassification is denied; will issue written Opinion and Order in near future; appellate period runs from date of that written Opinion and not today's date. Thanked both parties; well-presented case; very difficult burden to meet; wants record to show that.

Respectfully submitted,

Kathleen C. Weidenhammer Administrative Assistant

MEMORANDUM

Through: George P. Ferreri Frank D. Whitehead

Copies

To Judge Cornelia Bright-Gordon From M

Michael Caughlin

Date 0/24/90

Subject Request for a Contested Case Hearing Regarding ACP 90-48A

The Air Management Administration would like to schedule a contested case hearing, as provided by the State Government Article, Section 10-201 et. seq., Annotated Code of Maryland, relating to the assessment of ACP 90-48A against Larry E. Knight, Inc.

The basis for this penalty is outlined in the attached Notices of Proposed and Assessed Civil Penalty No. ACP 90-48A. The response from Larry E. Knight, President of Larry E. Knight, Inc., is also attached.

The AMA would appreciate your efforts to schedule this hearing at your earliest opportunity.

Thank you for your assistance in this matter.

MC/ec

Enclosures

cc: Jeffrey E. Howard Brooks Stafford, Baltimore County Bureau of Air Quality Management Dorothy Guy

NOV 2 7030

MEMORANDUM

Copies

Richard Pecora

То	Martin W.	Walsh, Jr. F	rom George	P. Ferreri	Date 09/04/90
Subject_	Notice of	Assessed Civil	Penalty No.	90-48A	

RE: Larry E. Knight, Inc. -- Failure to take reasonable precautions to prevent particulate matter from becoming airborne

This memo is to inform you that Air Management has assessed a civil penalty of \$3,000 against Larry E.Knight, Inc., a concrete products plant in Resiterstown MD.

This penalty is a result of three violations during the past seven months, wherein the Company failed to take reasonable precautions to prevent fugitive dust from the transportation of materials over the Company's roadway.

The Company was given an opportunity for an informal meeting with Air Management after they were notified that we intended to assess this penalty. The Company cancelled scheduled meetings; in one case, less than two hours before the meeting was due to begin. The Company did not attempt to reschedule the meetings.

GPF: jlg

Enclosure

cc: Richard Pecora

NOV 5 1990

ALL REALITIME BILLIANS

State of Maryland Gillo.

DEPARTMENT OF THE ENVIRONMENT

2500 Broening Highway, Baitimore, Maryland 21224
Area Code 301 • 631- 3255

William Donald Schaefer Governor Martin W. Walsh, Jr. Secretary

September 4, 1990

CERTIFIED MAIL

Mr. Larry E. Knight Larry E. Knight, Inc. 12200 Glynowings Drive Reisterstown MD 21136

Dear Mr. Knight:

Subject:

Notice of Assessed Civil Penalty No. ACP 90-48A

RE:

Failure to employ reasonable measures to prevent particulate

matter from becoming airborne

The Air Management Administration (AMA) of the Department of the Environment has the responsibility to implement and enforce the air pollution laws and regulations of the State of Maryland, including \$2-610.1 of the Environment Article, Annotated Code of Maryland. This section authorizes the Department of the Environment to assess an administrative penalty of up to \$1,000 per day of violation for violation of the State's air quality laws and regulations. Larry E. Knight, Inc. (the "Company") owns and operates a plant located at 12200 Glynowings Drive, Reisterstown, Maryland. The plant is subject to the Maryland Air Quality Act, Environment Article, \$2-101 et seq. and the Maryland regulations governing the Control of Air Pollution.

The specific regulation that the Company is charged with violating is COMAR 26.11.06.03D, which generally requires that a person may not cause or permit any material to be handled, transported, or stored, or a building, its appurtenances, or a road to be used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate material from becoming airborne.

This regulation was violated in the following manner: Inspectors from the Baltimore County Department of Environmental Protection and Resource Management, Bureau of Air Quality Management, observed violations of the above regulation on three (3) separate occasions during the past seven (7) months. Notices of Violation of COMAR 26.11.06.03 D were issued for October 27, 1989, February 8, 1990, and April 9, 1990 for failing to take reasonable precautions to prevent particulate matter generated by transportation of materials over the Company's roadway from becoming airborne.

Mr. Larry E. Knight September 4, 1990 Page 2

Based on the above facts, the AMA has determined that the Company has violated Maryland law regarding air pollution control. The Company is, therefore, subject to assessment of an administrative penalty under Environment Article \$2-610.1. On July 9, 1990, the AMA sent a Notice of Proposed Civil Penalty No. ACP 90-48 to the Company, indicating the AMA's intent to assess an administrative penalty against the Company. Pursuant to \$2-610.1(b), the Company was given an opportunity for an informal meeting with AMA. That meeting was never held due to repeated cancellations and delays by the Company. The AMA has now determined to proceed with the administrative Penalty assessment against the Company.

The penalty that the Air Management Administration is seeking in this case is \$3,000, which is based on the factors listed in \$2-610.1(c) (iii) as applied to the facts of this case. Before this penalty can actually be assessed, the Company is entitled, under Environment Article \$2-610.1, to a hearing.

You may request a hearing before the Department. Any request must be made within 20 days of your receipt of this letter. If you do not request one, a hearing may be scheduled before an Administrative Law Judge of the Office of Administrative Hearings. This hearing will be a contested case, as provided by the State Government Article, §10-201, et seq., Annotated Code of Maryland.

If you do not request a hearing within 20 days, or fail to appear at a scheduled hearing, this Notice then becomes a final order of the Department of the Environment and the entire \$3,000 penalty must be paid immediately. Failure to pay may then subject your Company to judicial collection procedures, including a lien on your property for the Entire \$3,000 plus interest and costs.

Any questions concerning this matter should be directed to Mr. Michael J. Caughlin, Chief, Division of Field Services and Noise Control, at (301) 631-3200.

Sincerely,

George 🗹 Ferreri

Director

GPF:jlg Air Management Administration

-

cc: Martin W. Walsh, Jr.
Richard Pecora
Jeffrey Howard, Assistant Attorney General
Baltimore County Department of Environmental Protection and Resource
Management, Mr. Brooks Stafford
Michael Caughlin
Dorothy Guy
Gary Reisman



DEPARTMENT OF THE ENVIRONMENT

2500 Broening Highway, Baltimore, Maryland 21224

Area Code 301 • 631- 3255

William Donald Schaefer Governor Martin W. Walsh, Jr. Secretary

September 4, 1990

CERTIFIED MAIL

Mr. Larry E. Knight
Larry E. Knight, Inc.
12200 Glynowings Drive
Reisterstown MD 21136

Dear Mr. Knight:

RE:

A A FORD OUT WATER

SUBJECT: Notice of Assessed Civil Penalty No. ACP 90-48A

Failure to take reasonable measures to prevent particulate matter from becoming airborne.

The Air Management Administration, in response to your request for an informal meeting to discuss the circumstances relating to Notice of Proposed Civil Penalty No. ACP 90-48, attempted twice to schedule such a meeting with your Company. On both occasions, these meetings were cancelled by the Company. On the second occasion, which occurred on August 17, 1990, the meeting was cancelled by one of your secretaries less that two hours before the time it was scheduled. The only explanation provided was that the necessary Company representative was out of town.

Neither you, or any other employee of your Company, ever called back to explain why the meeting had to be cancelled on such short notice. The Company has made no effort to contact this office in an attempt to reschedule the aforementioned meeting.

consequently, the Department has decided to proceed with the assessment of this civil penalty.

Sincerely,

George P. Ferreri

Director

Air Management Administration

GPF: jlg

cc: Richard Pecora

Larry 6. Hright, Inc.

PRECAST & PRESTRESS CONCRETE PRODUCTS
P.O. Box 187
12200 GLYNOWINGS DRIVE
GLYNOON, MARYLAND 21071
301-833-7800

September 13, 1990

RECEIVED

SEP 1 - 1980

AIR MANAGEMENT ADMINISTRATION

Department of the Environment Air Management Administration 2500 Broening Highway Baltimore, MD 21224

ATTN: George P. Ferreri

SUBJ: Notice of Assessed Civil Penalty No. ACP 90-48A

Dear Mr. Ferreri,

As per your letter of 9/4/90, we are writing to request a hearing. We regret that both informal meetings with your office were cancelled, however, both cancellations were due to circumstances beyond our control. As with the meeting that had been scheduled for 8/17/90 and cancelled just two hours before, the principal officer, Larry E. Knight, was called out of town on a business emergency. Since the problems precipitated by this emergency would be greater and more widespread than any caused by failure to keep the meeting, Mr. Knight left town to deal with the situation.

Once again, we apologize for both cancellations and are awaiting our hearing date. If you have any questions, please do not hesitate to contact our office.

Very truly yours,

LARRY E. KNIGHT, INC.

Larry E. Knight

,√President'∴

: LEK/tcf

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO:

Arnold Jablon, Director

DATE: October 27, 1999

Permits & Development Management

FROM:

Charlotte E. Radcliffe

County Board of Appeals

SUBJECT: Closed Files:

√Case No. 94-368-A /6500 Falls Road, LLP riding

w/ CBA-96-148 /Klaunberg North -PDM III-389

Case No. R-95-137 /Larry E. Knight

Since no further appeals have been taken from the Circuit Court opinions, we are hereby closing and returning the Board's case files to you herewith. The original/certified files and exhibits will be returned to your office by John Almond, Records Manager /CCt.

(CBA-96-148 -FDP file PDM #III-389 Attachments: -Case #94-368-A returned to Chris Rorke) -Case #R-95-137 w/ 2 photo board exhibits

LARRY E. KNIGHT SW/s Glynowings Drive, opposite St. Georges Station Road; also W/s Timber Grove Road (#12200 Glynowings Drive) R-95-137 Item #2, Cycle IV, 1994

4th Election District 3rd Councilmanic District

From S.E. (14.60 acres +/-) and D.R. 3.5 (.04 acre +/-) to M.L.-I.M. (14.64 acres /total)

August 30, 1994

Petition for Reclassification filed by Michael T. Wyatt, Esquire, on behalf of Larry E. Knight, Petitioner.

Michael T. Wyatt, Esquire 404 Allegheny Avenue Towson, MD 21204

Counsel for Petitioner

Petitioner

Larry E. Knight 12200 Glynowings Drive Glyndon, MD 21071

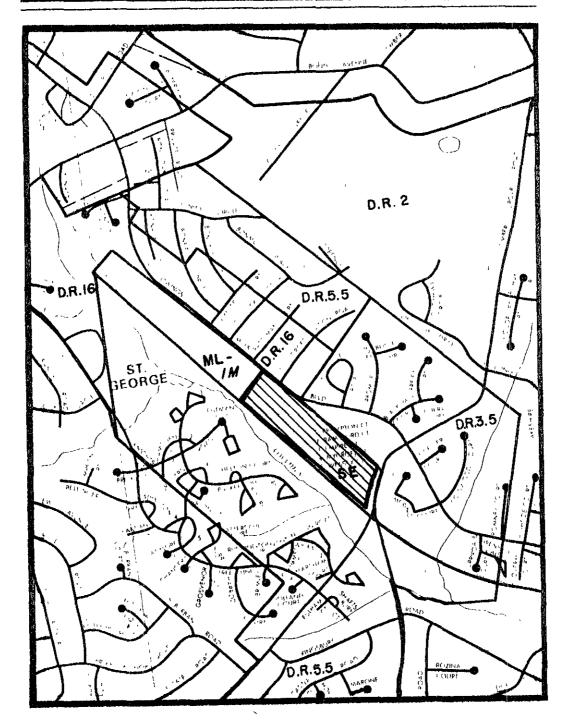
George William Stephens, Jr. and Associates, Inc. 658 Kenilworth Drive, Suite 100 Towson, MD 21204 Engineer

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Pat Keller
Jeffrey Long
Lawrence E. Schmidt
W. Carl Richards, Jr.
Docket Clerk /ZADM
Arnold Jablon, Director /ZADM





ITEM NUMBER 2 Location of Property Under Petition

Scale: 1"= 1000'

CASE NO. R-95-137

CYCLE IV, ITEM 2

PETITIONER:

Larry E. Knight

REQUESTED ACTION:

Reclassification to M.L.-I.M. (Manufacturing Light, Industrial Major)

EXISTING ZONING:

S.E. and D.R. 3.5 (Service Employment, Density Residential)

LOCATION:

Southwest side of Glynowings Drive, opposite St. Georges Station Road

AREA OF SITE:

14.60 acres

ZONING OF ADJACENT PROPERTY/USE:

Northeast: D.R. 16 - Single-family, attached residential

Northwest: M.L.-I.M. - Mixed residential use Southeast: D.R. 3.5 - Mixed residential use Southwest: D.R. 5.5 - Mixed residential use

SITE DESCRIPTION:

This 14.60 acre parcel is currently improved with a concrete manufacturing plant.

PROPERTIES IN THE VICINITY:

The subject site is bounded to the west by the tracks of the CSX Railroad, and to the east by Owings Mills Boulevard. An extensive wetland area associated with the Gwynns Falls is located adjacent to the railroad tracks. The property is, for the most part, surrounded by mixed residential development.

The Hunter's Glen South, Saint Georges Station, Shepard's Glen and Suburbia Addition subdivisions are all located within close proximity to or abut the applicant's site. A narrow strip of M.L.-I.M. zoned and improved land is located immediately northwest of the property.

WATER AND SEWERAGE:

The area is served by public water and sewer, and is designated as W-1, S-1 (existing service area) according to the <u>Master Water and Sewer Plan</u>.

TRAFFIC AND ROADS:

Direct access to Owings Mills Boulevard, which is classified as an arterial, is available to the property.

ZONING HISTORY:

The subject site was zoned M.L.-I.M. in 1976. Zoning changes were sought by the Worthington Manor and Sagamore Community associations in conjunction with the 1980 C.Z.M.P. of that action, property adjacent to the subject site was rezoned from M.R.-I.M. and M.L.-I.M. to D.R. 3.5 and D.R. 5.5 (see Issue Nos. 3-136 and 3-194). As part of the 1984 Comprehensive Zoning Map Process, the current property owner, Mr. Larry Knight, requested the property's zoning be changed from M.L.-I.M. to D.R. 16. While Planning staff and the Planning Board recommended D.R. 3.5, the County Council voted to retain the M.L.-I.M. zoning (see Issue No. 3-65). No issues were filed during the 1988 Comprehensive Zoning Map Process. Ιn 1992, the applicant again sought rezoning to D.R. 16. Consistent with the recommendation of staff and the Planning Board, the S.E. classification was applied to the property (see Issue No. 3-175).

MASTER PLAN/COMMUNITY PLANS:

The Growth Management Area Map indicates the applicant's site is located within a Community Conservation Area. The Baltimore County Growth Management Program Guidelines for the 1992 Comprehensive Zoning Map Process, which were adopted by the Baltimore County Planning Board and approved by the Baltimore County Council on January 23, 1992, state the following:

Development of high intensity business, office, or manufacturing uses is inconsistent with the intention of designating an area as Community Conservation, and may necessitate zoning changes on vacant land to reduce the intensity of new development.

In Community Conservation Areas, new Manufacturing, Business Roadside (B.R.), or Business Major (B.M.) zoning is generally inappropriate and should not abut existing residential uses.

PROPOSED VS. EXISTING ZONING:

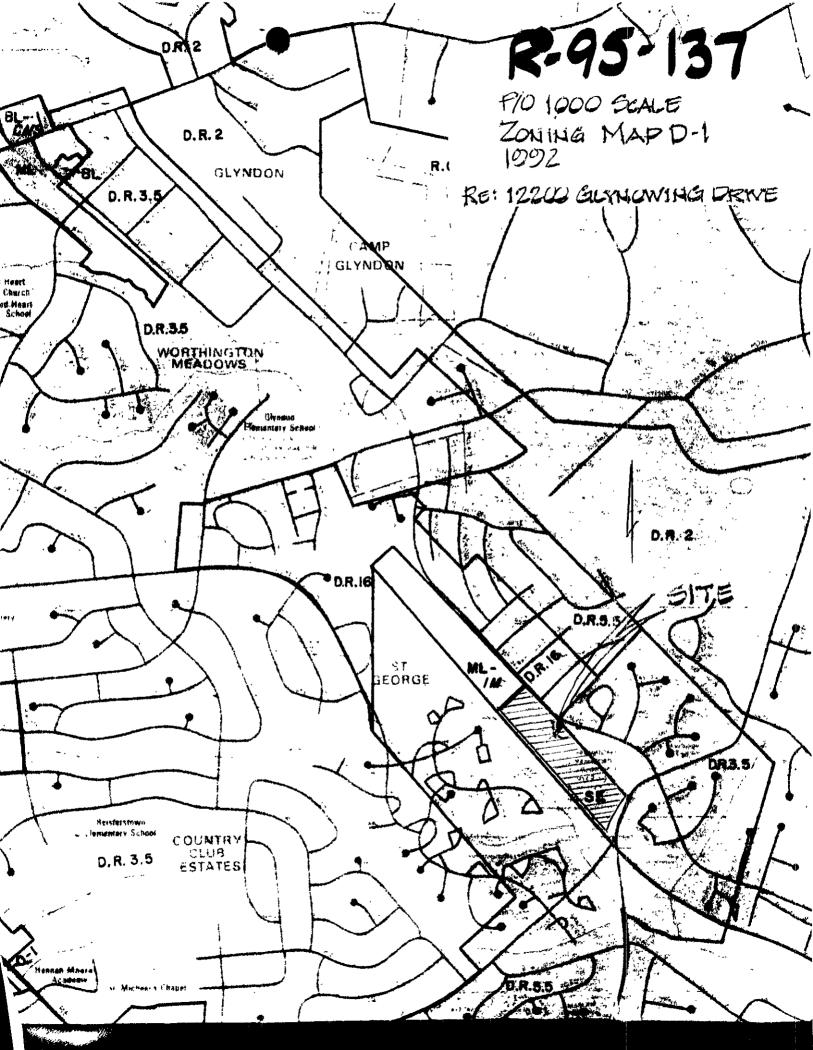
Regulations governing the M.L. zone are found in Section 253 of the Baltimore County Zoning Regulations. The M.L. zone permits a number of light manufacturing uses by right. The zone also allows auxiliary retail or service uses or semi-industrial uses, provided the use is located in a planned district, however, such uses are not permitted in cases where direct access to an arterial street exists. The M.L. zone also permits several uses by Special Exception. The I.M. district regulations are found in Section 259.2H.

Regulations for the S-E zone may be found in Section 208 of the Baltimore County Zoning Regulations. The Service-Employment (S-E) zone was established to permit and encourage the development of general offices, related business uses and small, light industrial uses. The regulations provide for flexibility in the combination of uses permitted in the S-E zone. However, development of buildings and type of uses are restricted to insure compatibility with surrounding residential areas.

OFFICE OF PLANNING AND ZONING SUMMARY AND RECOMMENDATIONS:

Based upon the information provided and analysis conducted, staff recommends that the applicant's request be denied for the following reasons:

- The proposed zoning is inconsistent with the Community Conservation Area designation of the site.
- The retention of the S.E. zone would ensure that future development of the site would be compatible with surrounding residential areas.



REPORTED

IN THE COURT OF SPECIAL APPEALS OF MARYLAND

No. 239

September Term, 1995

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.

v.

BEACHWOOD I LIMITED PARTNERSHIP

Moylan, Wenner, Cathell,

JJ.

Opinion by Moylan, J. Concurring Opinion by Cathell, J.

Filed: December 1, 1995

The appellants, People's Counsel for Baltimore County and various neighbors of the property in question, initially appealed to the Circuit Court for Baltimore County the decision of the County Board of Appeals to grant a Petition for a Zoning Reclassification that had been submitted by the appellee, the Beachwood I Limited Partnership (Beachwood). In the circuit court, Judge John Grason Turnbull, II affirmed the decision of the Board of Appeals. This appeal has followed. The appellants present, in effect, three questions for resolution:

- 1) Was there substantial evidence to support the finding of the Board of Appeals that the County Council had made a mistake in its earlier comprehensive zoning decision?
- 2) Did the Board of Appeals fail to make the specific findings necessary to justify its decision?
- 3) Did the Board of Appeals participate in impermissible "contract zoning" in contravention of both the Maryland case law and Baltimore County regulations?

The 148-acre property, of which 144.9 acres were the subject of the reclassification petition, is located in the North Point area of southeastern Baltimore County along the Back River, a tributary of the Chesapeake Bay. The property is bound to the west by Morse Lane (a county road) and to the north and east by a small road called Todds Point (or "Shore") Road. The property is reached via a nearby intersection between Morse Lane and North Point Boulevard, a large state road with between four and six lanes. The intersection lies just to the south of the property.

Zoning History of the Tract

Prior to 1984, the property was zoned M.H.-I.H. (Manufacturing, Heavy--Industrial, Heavy), the most intense zoning classification in Baltimore County. The property was owned through the 1970's by the Bethlehem Steel Corporation. In the early 1980's, subsequent owners made efforts to develop the tract industrially, but the efforts came to naught. The tract is, in major measure, an isolated and undeveloped area that has been passed over by the industrial development of Sparrows Point and North Point Boulevard.

As part of its quadrennial comprehensive zoning process, the Baltimore County Council in 1984 changed the zoning classification of the property from M.H.-I.H. to D.R. 5.5, a classification that allows for residential development at a density of up to 5.5 dwelling units per acre. As part of the subsequent 1988 comprehensive zoning, the County Council continued the zoning classification of D.R. 5.5.

In 1988, the Chesapeake Bay Critical Areas Program went into effect and the subject property, located as it was near a tributary river, was designated a "limited development area." In such a limited development area, the permitted residential density ranges from a low of 1 unit per 5 acres up to a high of 4 units per acre. The then existing D.R. 5.5 zoning was denser than what was allowed in a limited development area.

Comprehensive Zoning of 1992

As part of the comprehensive zoning of 1992, the Baltimore County Council changed the zoning on the subject property from

D.R. 5.5 to D.R. 1, thereby lowering the permitted residential density to 1 dwelling unit per acre. As a policy decision made by the legislative branch of a charter county, that comprehensive zoning requires no further justification to support it. It is presumptively correct. Trainer v. Lipchin, 269 Md. 667, 672-73, 309 A.2d 471 (1973); Stratakis v. Beauchamp, 268 Md. 643, 652-53, 304 A.2d 244 (1973). To place the remaining discussion in some context, however, we shall note at least several criticisms that could arguably be made of that 1992 legislation, just as we shall also note several arguments that could be made in support of it.

Two neighboring communities, Edgemere and Todd's Point, are both zoned D.R. 5.5. Land immediately to the west of the subject property is zoned for manufacturing and industrial purposes. The nearest significant D.R. 1 zone in Baltimore County is located some five miles away.

On the other hand, the community of Edgemere is separated from the subject property by a body of water, Greenhill Cove; the small community of Todd's Point, moreover, was in existence before either zoning or the Critical Area law came to Baltimore County. It is also of significance that a density of 1 unit per acre falls, in terms of the Chesapeake Bay Critical Area requirements, about halfway between the lowest permitted density of one unit per 5 acres and the highest permitted density of 4 units per acre. It may also be noted that other undeveloped areas along the shoreline of Back River are in one instance zoned D.R. 1 and in other instances subject to the more restrictive zoning of R.C. 20, a

Resource Conservation Zone, permitting only 1 dwelling unit per 20 acres.

In any event, the County Council's comprehensive zoning of 1992 was presumptively correct and it is, therefore, the status quo ante from which we proceed in assessing the propriety of any changes made therefrom.

The County Board of Appeals

The comprehensive zoning of the subject parcel as D.R. 1 was promulgated by the Baltimore County Council as part of the Comprehensive Zoning Map it adopted on October 15, 1992. Four-and-a-half months later, on March 1, 1993, Beachwood petitioned the County Board of Appeals to reclassify the property from D.R. 1 to D.R. 3.5. It assigned as its reason for the reclassification the alleged error by the County Council in the Comprehensive Zoning Map process of 1992. The thrust of the allegation of error was that the 1992 "zoning is out of character with the zoning of the surrounding area." It was further alleged that it would be an economic hardship on the developer, effectively amounting to confiscation, to be required to develop the property at so low a level of residential density:

To be developed the site will require the construction of a sewage pumping station. Such facilities are impractical at the density of one dwelling per acre as limited in a D.R. 1 zone. The zone has the practical effect of making the property commercially undevelopable.

The Board of Appeals heard two days of testimony on the proposed reclassification, on November 2 and November 24, 1993. On

January 21, 1994, the Board, by a vote of 2-to-1, granted Beachwood's petition and reclassified the property as D.R. 3.5. The majority opinion found as a matter of fact that the County Council was in ermor when it zoned the property D.R. 1:

The Board has carefully reviewed and considered the evidence and testimony presented in these proceedings, and finds that the testimony presented by the Petitioner and, particularly, the expert testimony given by Mr. Crozier with his supporting reasons, supports a finding of fact that the subject property was erroneously zoned by the County Council, and that there is no logical reason for the property to be down-zoned from D.R. 5.5 to D.R. 1. We find that the facts presented by the Petitioner in its case indicate that the D.R. 1 zoning is in fact in error, and the Board will therefore find that the requested reclassification from D.R. 1 to D.R. 3.5 should be granted and will so order. (Emphasis supplied.)

The dissenting opinion concluded that no "error" had been committed by the County Council, as that term of art is defined in zoning law:

I have no doubt that the D.R. 1 zoning placed on this site following the recommendation of the Planning Board resulted from the intentional action of the Council and not as a result of any mistake, nor as the result of an error as the same is defined in the body of case law in Maryland interpreting that zoning concept.

The dissenting Board member concluded that the D.R. 1 zoning classification

result[ed] from the contemplative and deliberative process of the County Council, and not from any mistake or error, particularly in light of the fact that the D.R. 1 zoning permits a reasonable use of the land and residential development.

People's Counsel, along with protesting neighbors, appealed that reclassification to the Circuit Court for Baltimore County. On October 12, 1994, the Circuit Court ruled that the issue of whether the County Council had made an error or mistake in the 1992 comprehensive zoning was fairly debatable. It, therefore, affirmed the reclassification order of the County Board of Appeals.

Deferential Review: To Whom Is Due the Deference?

ordinarily, when the judicial branch of government is called on to review a decision made by an administrative agency, the watchword is deference. Courts, at all levels, are enjoined not to substitute their judgment for that of the coordinate branch of government to whom such judgment has been, in our scheme of divided government, primarily entrusted. Red Roof Inns, Inc. v. People's Counsel, 96 Md. App. 219, 224, 624 A.2d 1281 (1993). Courts must strive, rather, to uphold the decision of the administrative agency, if there is any evidence which can be said to have made the issue for decision by the agency fairly debatable. Eger v. Stone, 253 Md. 533, 542, 253 A.2d 372 (1969). "[T]he same standard applies in both this court and the circuit court." Relay v. Sycamore, 105 Md. App. 701, 713, 661 A.2d 182 (1995).

In the less routine institutional configuration of this case, however, the deference that is due is exponential. Both the trial court and this Court are called upon to determine, albeit deferentially, whether the Baltimore County Board of Appeals was, in its turn, appropriately deferential to the Baltimore County

Council. The Board of Appeals may not substitute its judgment for that of the County Council, even if it, had it been so empowered, might have made a diametrically different decision. The circumstances under which it may overturn or countermand a decision of the County Council are narrowly constrained. It may never simply second-guess.

The deference that is due by all, including the County Board of Appeals, to the decisions of the County Council is explained in part by the Jeffersonian homage that we pay to the legislative branch of government generally. Within its appropriate governmental sphere, the Baltimore County Council legislature for the citizens of Baltimore County. MARYLAND CONSTITUTION, Art. XI-A, § 3; Ritchmount Partnership v. Board of Supervisors, 283 Md. 48, 62-63, 388 A.2d 523 (1978) ("The effect of the language in the opening sentence of Sect. 3 is to render the council the ultimate repository of all legislative power possessed by the county.") When it undertakes, every four years, its comprehensive zoning function, it speaks with the voice of the people. Hyson v. Montgomery County, 242 Md. 55, 63, 217 A.2d 578 (1966). As with all legislative bodies, it may sometime make policy decisions that are, in the eyes of some observers, wrong. For the ordinary rightness or wrongness of their decisions, however, legislators are answerable only to their electorates at the next election -- not to the courts and not to the County Board of Appeals.

Even in the face of comprehensive zoning or rezoning by the County Council, however, there are certain powers delegated to the

County Board of Appeals to effect zoning reclassifications with respect to particular pieces of property. The BALTIMORE COUNTY CODE (1978), § 2-356(a)(1) provides, in pertinent part:

The board of appeals shall have the power to make a change as to the district, division, or zone within which a particular piece of property is classified (zoning reclassification) as hereinafter provided.

Section 2-356(j) then imposes the limits on that power. The Board of Appeals may reclassify only if it is able to find at least one of two possible preconditions satisfied. Subsection (j) provides, in pertinent part:

Before any property is reclassified pursuant to this section, the board of appeals must find:

(1) That . . . there has occurred a substantial change in the character of the neighborhood in which the property is located since the property was last classified or that the last classification of the property was established in error. (Emphasis supplied.)

It is the second of the two preconditions that is involved in this case. The petition for the reclassification came a scant 4-1/2 months after the adoption of the 1992 Comprehensive Zoning Map, and it is clear that no substantial change occurred in the character of the neighborhood during those four months. Indeed, Beachwood made no allegation of substantial change. See, moreover, BALTIMORE COUNTY CODE (1978), § 2-356(k). The only question is whether the County Council was guilty of a mistake or error in the course of its 1992 comprehensive zoning. The issue is precisely as

we posed it in Boyce v. Sembly, 25 Md. App. 43, 44, 334 A.2d 137 (1975):

This case presents the narrow question of whether the County Council of Baltimore County (Council) committed basic and actual "mistake" or "error" as those interchangeable terms are used in zoning law.

The Strong Presumption of Validity

When it undertakes to grant a zoning reclassification, the Board of Appeals does not enjoy the luxury of writing on a clean slate. For it to believe, as a value judgment or as a policy determination, that the County Council decision under review was wrong is not ipso facto to believe that the wrongful decision was necessarily a "mistake" or was based on an "error."

The deference in this regard due to the decision of the County Council by the Board of Appeals was well expressed by the Court of Appeals in Stratakis v. Beauchamp, 268 Md. 643, 304 A.2d 244 (1973). In that case, as here, the Baltimore County Board of Appeals issued a zoning reclassification pursuant to a reclassification petition. There, as here, the petition for reclassification was filed a bare four months after the County Council had promulgated comprehensive rezoning. There, as here, quadrennial comprehensive rezoning had lowered the permitted density of a parcel of land. There, as here, the reclassification by the Board of Appeals merely returned the zoning to a density more closely approaching its original classification. The Board of Appeals, ashere, ruled that the County Council had been guilty of a mistake or error in its "down-zoning" of the property. The Court of Appeals

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held that there was not sufficient evidence of a mistake on the part of the County Council to have made that issue fairly debatable. Judge Levine set out the stern standard of review:

While, in recent years, we have had occasion to enunciate a number of important principles applicable to the law of zoning, perhaps none is more rudimentary than the strong presumption of the correctness of original zoning and of comprehensive rezoning. To sustain a piecemeal change in circumstances such as those present here, strong evidence of mistake in the original zoning comprehensive rezoning or evidence substantial change in the character of the neighborhood must be produced. . . . Since, as we have also said, this burden is onerous, . . . the task confronting appellants, whose application followed the comprehensive rezoning by merely four months, is manifestly a difficult one.

268 Md. at 652-53. (Emphasis in original) (Citations omitted). See also Trainer v. Lipchin, 269 Md. 667, 672-73, 309 A.2d 471 (1973); Pattey v. Board of County Commissioners, 271 Md. 352, 359, 317 A.2d 142 (1974).

Another articulation of the strong presumption of validity attaching to comprehensive zoning is found in Wells v. Pierpont, 253 Md. 554, 253 A.2d 749 (1969). That also was a case in which the Baltimore County Board of Appeals issued a zoning reclassification changing what the Baltimore County Council had earlier done in adopting its Comprehensive Zoning Map. In that case, the Board of Appeals found evidence of a substantial change in the intervening three-year period and the circuit judge affirmed reclassification by the Board of Appeals. The Court of Appeals reversed the circuit court, holding that the heavy burden cast upon

one seeking a zoning reclassification had not been satisfied.

Judge McWilliams there described the weight of the presumption of validity attending comprehensive rezoning:

It is now firmly established that there is a strong presumption of the correctness of original zoning and of comprehensive rezoning, and that to sustain a piecemeal change therefrom there must be produced strong evidence of mistake in the original zoning or comprehensive rezoning or else evidence of substantial change in the character of the neighborhood. . . And, of course, the burden of proof facing one seeking a zoning reclassification is quite onerous.

253 Md. at 557. (Citations omitted). See also Mayor and Council of Rockville v. Henley, 268 Md. 469, 302 A.2d 45 (1973); Heller v. Prince George's County, 264 Md. 410, 412, 286 A.2d 772 (1972); Cabin John Ltd. v. Montgomery County, 259 Md. 661, 271 A.2d 174 (1970); Creswell v. Baltimore Aviation, 257 Md. 712, 721, 264 A.2d 838 (1970).

What Is A "Mistake" or An "Brror"?

As helpful as the case law otherwise was in describing 1) the strong presumption of validity attending comprehensive zoning or rezoning by a county council and 2) the "onerous" burden on a landowner to show an error or mistake in the comprehensive zoning, it was only with a series of three opinions by Judge Rita Davidson, two for this Court and one for the Court of Appeals, that we at last got a firm handle on precisely what was meant by the terms of art "mistake" and "error." In the first place, "mistake" and "error" are "interchangeable terms [as] used in zoning law." Boyce v. Sembly, 25 Md. App. 43, 44, 334 A.2d 137 (1975).

1. "Change or Mistake" Rule Inapplicable to Comprehensive Resoning:

It is Judge Davidson's opinion in Coppolino v. County Board of Appeals, 23 Md. App. 358, 328 A.2d 55 (1974) that is particularly helpful in pinpointing which decision, in a series of possibly flip-flopping decisions, enjoys the strong presumption of validity and is due the deference of subsequent decision makers. That is the place where the mistake must be found.

In Coppolino, as in this case, the property owner had enjoyed a classification under an earlier comprehensive zoning that would have permitted a more intense development of the property. There, as here, a subsequent comprehensive zoning "downzoned" the property. In Coppolino, the 1971 comprehensive zoning downzoned to D.R. 5.5 Parcel C, which had enjoyed a D.R. 16 classification under In this case, the 1966 comprehensive zoning. 1992 the comprehensive zoning downzoned to D.R. 1 Beachwood's property, which had enjoyed a D.R. 5.5 classification under the comprehensive zonings of 1988 and 1984. In Coppolino, moreover, the 1971 downsizing by the County Council was not only a departure from the earlier comprehensive zoning, but was also contrary to the 1967 recommendations of the Planning Staff and the Planning Board. Moreover, "[t]he reason for these [downzoning] actions [did] not appear in the record. " 23 Md. App. at 364. There, as here, the Baltimore County Board of Appeals, by a similar two-to-one vote, ruled that the County Council's comprehensive zoning had been flawed by a mistake or error.

But what, precisely, was the nature of the purported mistake or error which the Board of Appeals believed to have fatally infected the County Council's comprehensive zoning? The owners argued that the earlier "comprehensive zoning of 1966 [was] presumed to be correct," 23 Md. App. at 368, and "that there was error in the 1971 comprehensive zoning" for failing to honor that presumptive validity of the earlier comprehensive zoning:

The owners maintain that the then existing zoning of the subject property could not properly be altered by the Council unless there was evidence of error in the D.R.-16 classification assigned in 1966 or change in the character of the neighborhood subsequent to the assignment of that classification.

In support of this position the owners point out that Baltimore County Code (1972 Cum. Supp.) \$\$ 22-20 and 22.22.1 now require that a comprehensive rezoning of the entire county take place at least once in every four They argue that the frequent use of the comprehensive rezoning technique, absent the "change or mistake" rule, will permit arbitrary and capricious action on the part of Council, which will undermine permanence and stability of zoning classifications intended to be protected by presumption of validity comprehensive rezoning.

23 Md. App. at 368-69. (Footnote omitted) (Emphasis supplied).

In just such a fashion, the County Board of Appeals in the present case seemed to cast on the County Council a burden to justify why its 1992 comprehensive zoning had departed from its presumptively correct 1988 comprehensive zoning:

Originally the property was zoned Manufacturing Heavy (M.H.). In 1984 the property was rezoned from M.H. to D.R. 5.5, and the D.R. 5.5 zoning was reaffirmed in the 1988 map process. The Board can find, from

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the testimony and evidence received, no specific reason for this down-zoning.

[T]here is no logical reason for the property to be down-zoned from D.R. 5.5 to D.R. 1. (Emphasis supplied.)

The circuit court, as well, seemed to cast a burden on the County Council to justify its 1992 departure from its earlier comprehensive zoning:

It is inconceivable to this Court that the Council could downgrade this property to D.R. 1 when that zoning would be completely incompatible with the surrounding zoning in this area. This Court questions why this property was ever changed from D.R. 5.5 . . . (Emphasis supplied.)

Coppolino, however, rejected such an approach, which, in effect, would have allocated to the County Council the burden of justifying any change it made in 1992 from the pre-1992 status quo. Coppolino pointed out that the "Court of Appeals and this Court have consistently held that the 'change or mistake' rule is not controlling in cases involving comprehensive rezoning." 23 Md. App. at 369. See also Scull v. Coleman, 251 Md. 6, 12, 246 A.2d 223 (1968); Trustees v. Baltimore County, 221 Md. 550, 560-61, 158 A.2d 637 (1960); Roberts v. Grant, 20 Md. App. 247, 253, 315 A.2d 103 (1974). A subsequent comprehensive zoning is not, therefore, to be charged with mistake or error because of its failure to have found a mistake or error in earlier comprehensive zoning which it changed. It has no such burden. Coppolino's holding in this regard was clear:

[W]e hold that under the cyclical zoning process established by Baltimore County the "change or mistake" rule is not controlling and that the absence of a showing of either change or mistake prior to a comprehensive rezoning does not constitute error.

23 Md. App. at 370. McBee v. Baltimore County, 221 Md. 312, 317, 157
A.2d 258 (1960), spoke to the same point:

When such a new [comprehensive zoning] map is adopted, it is entitled to the same presumption that it is correct as is an original zoning.

The Board of Appeals' finding in this case of "no specific reason for this down-zoning" is, therefore, readily explained by the self-evident fact that the County Council was under no obligation to give any specific reason for the downzoning. In no event does it constitute the requisite mistake or error, without a proper finding of which the reclassification made by the County Board of Appeals was unjustified.

2. Mistake or Error is Something Other Than a Questionable Choice:

It was in the second of the series of three opinions, Boyce v. Sembly, 25 Md. App. 43, 334 A.2d 137 (1975), that Judge Davidson set out explicitly that a conclusion on the part of the County Board of Appeals that the comprehensive zoning of the County Council under review was wrong, ill-advised, or unsuitable is not an adequate finding of an actual mistake or error within the contemplation of zoning law. The legal meaning of "mistake" or "error" is far more restricted:

In order to assess the evidence before the Board, it is necessary to understand the inherent nature of the terms "mistake" or

"error" as they are used in zoning law. perusal of cases, particularly those in which a finding of error was upheld, indicates that the presumption of validity accorded to a comprehensive zoning is overcome and error or mistake is established when there is probative evidence to show that the assumptions or premises relied upon by the Council at the time of the comprehensive rezoning were Error can be established by showing invalid. that at the time of the comprehensive zoning the Council failed to take into account then existing facts, or projects or trends which were reasonably foreseeable of fruition in the future, so that the Council's action was premised initially on a misapprehension.

25 Md. App. at 50-51. (Emphasis supplied).

To grasp this limited content of the terms "mistake" and "error" in zoning law, it may be helpful to draw an analogy to a flaw in the syllogistic process. The finding of a mistake or error is not so much concerned with the logical validity or merit of ultimate conclusion-drawing as it is with the adequacy and accuracy of the factual premises that underlie the conclusion-drawing. A conclusion based on a factual predicate that is incomplete or inaccurate may be deemed, in zoning law, a mistake or error; an allegedly aberrant conclusion based on full and accurate information, by contrast, is simply a case of bad judgment, which is immunized from second-guessing.

Boyce furthermore makes it clear that the burden is on those seeking a reclassification to show both 1) the then-existing conditions that allegedly made the comprehensive zoning incorrect and also 2) the literal failure of the County Council even to have considered those conditions:

It is presumed, as part of the presumption of validity accorded comprehensive zoning, that at the time of the adoption of the map the Council had before it and did, in fact, consider all of the relevant facts and circumstances then existing. Thus, in order to establish error based upon a failure to take existing facts or events reasonably foreseeable of fruition into account, it is necessary not only to show the facts that existed at the time of the comprehensive zoning but also which, if any, of those facts were not actually considered by the Council. This evidentiary burden can be accomplished by showing that specific physical facts were not readily visible or discernible at the time of the comprehensive zoning. . .

25 Md. App. at 51-52. (Emphasis supplied).

In the present case, there is no shred or hint of suggestion in either the opinion of the circuit court or the majority opinion of the County Board of Appeals that at the time of the comprehensive zoning in 1992 there were then existing conditions with respect to the Beachwood property or with respect to surrounding areas that were not known to the County Council. There was, ipso facto, no showing of the requisite mistake or error on which a reclassification would necessarily depend. We find appropriate in this regard the conclusion we reached under similar circumstances in Boyce:

Thus, unless there is probative evidence to show that there were then existing facts which the Council, in fact, failed to take into account, or subsequently occurring events which the Council could not have taken into account, the presumption of validity accorded to comprehensive zoning is not overcome and the guestion of error is not "fairly debatable."

25 Md. App. at 52. (Footnote omitted) (Emphasis supplied).

A classic instance in which the Baltimore County Board of Appeals erroneously attributed a "mistake" to the County Council simply on the basis of the Board's conclusion that the Comprehensive Zoning had involved a questionable choice was the case of Trainer v. Lipchin, 269 Md. 667, 309 A.2d 471 (1973). The Board of Appeals "concluded that the Council had been 'at least partially in error' in placing the front part of the property in D.R. 16, since it had 'completely lost its residential character.'" 269 Md. at 670. In substituting its judgment for that of the County Council, the Board of Appeals relied on one expert witness who testified "that it would not be 'practical' to build apartments on the subject parcel, " 269 Md. at 674, and another witness who offered his conclusion that the Comprehensive Zoning was erroneous because "in our estimation the best suitable use for that is commercial." 269 Md. at 675. The Court of Appeals held that such evidence was insufficient to make the issue of mistake fairly debatable. Indeed, Judge Levine disdainfully characterized the case as "yet another assault on the county-wide Comprehensive Zoning Maps adopted by the Baltimore County Council." 269 Md. at 668.

And see Shadynook Imp. Ass'n v. Molloy, 232 Md. 265, 192 A.2d 502 (1963), as yet another occasion 1) on which the Baltimore County Board of Appeals, in effect, second-guessed the County Council, essentially because of its conclusion that the Comprehensive Zoning had been wrong; 2) on which the Baltimore County Circuit Court affirmed the zoning reclassification by the County Board of

Appeals; and 3) on which the Court of Appeals reversed both the Circuit Court and the Board of Appeals, holding that the evidence before the Board of Appeals was not legally sufficient to make the issue of a possible mistake on the part of the County Council even fairly debatable.

When reviewing a legislative action by the County Council, such as comprehensive zoning, even the courts, with broad inherent powers not vested in the County Board of Appeals, are limited in their power of review. In County Council for Montgomery County v. District Land Corp., 274 Md. 691, 337 A.2d 712 (1975), the Court of Appeals pointed out:

It is well settled that the judicial branch of government cannot institute an inquiry into the motives of the legislature in the enactment of laws, lest the legislature be subordinated to the courts. . .

274 Md. at 704. The *District Land* opinion quoted with approval from C. Rhyne, *Municipal Law*, § 9-4 at 229-30 (1957):

"As a general rule, the motives, wisdom or propriety of a municipal governing body in passing an ordinance are not subject to judicial inquiry. . . ."

274 Md. at 705. Judge Singley then made it clear that the same deference was due by courts to the passing of zoning ordinances:

The same principle applies to zoning ordinances, which are presumed to be valid. As a consequence, courts will not pass on the wisdom of such measures. (Emphasis supplied.)

Id. A formiori, the County Board of Appeals may not "pass on the wisdom of such measures."

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This is not to say that the County Council may operate with impunity without any restraints on its legislative function. The general guidelines within which it must operate when engaged in comprehensive zoning were well spelled out by Chief Judge Hammond in Norbeck v. Baltimore County, 254 Md. 59, 66, 254 A.2d 700 (1969):

The broad test of the validity comprehensive rezoning is whether it bears a substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare, and such zoning enjoys a presumption validity of correctness. A property owner has no vested right to the continuance of the zoning status of his br neighboring property, merely the right to rely on the rule that a change will not be made unless it is required for the public good.

(Citations omitted). See also County Council for Montgomery County v. District Land Corp., supra, 274 Md. at 699-702.

There resides in the courts the ultimate authority to determine whether the action of the County Council was "arbitrary, capricious, discriminatory, or illegal." Ark Readi-Mix Concrete Corp. v. Smith, 251 Md. 1, 4, 246 A.2d 220 (1968); Hewitt v. Baltimore County, 220 Md. 48, 56-57, 151 A.2d 144 (1959); Wakefield v. Kraft, 202 Md. 136, 141, 96 A.2d 27 (1953). The County Board of Appeals, however, does not enjoy any supervisory power or appellate jurisdiction over the actions of the Baltimore County Council. Express Powers Act, MD. CODE (1957, 1994 Repl. Vol.), ART. 25A, § 5(V); BALTIMORE COUNTY CHARTER, § 602(a); United Parcel v. People's Counsel, 336 Md. 569, 587-590, 650 A.2d 226 (1994).

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With respect to petitions for zoning reclassifications, the County Board of Appeals enjoys "original and exclusive jurisdiction." Baltimore County Charter, \$ 602(e); United Parcel v. People's Counsel, 336 Md. at 587. That original jurisdiction is, however, expressly confined by the provisions of BALTIMORE COUNTY CODE, §§ 2-356(a) and (j), which limit the reclassifying authority of the County Board of Appeals to those instances wherein they find evidence of either "a substantial change in the character of the neighborhood" or a "mistake" or "error" in the comprehensive That is a far cry from appellate jurisdiction over the comprehensive zoning of the County Council on the ground that it may have been "arbitrary, capricious, discriminatory, or illegal." Original jurisdiction over zoning reclassification petitions is not coterminous with appellate jurisdiction over the zoning actions of the County Council.

3. The Conclusion of an Expert That a Mistake Was Made:

The third of the series of opinions by Judge Davidson clarifying the concept of "mistake" or "error" was Howard County v. Dorsey, 292 Md. 351, 438 A.2d 1339 (1982). In part, the Dorsey opinion served to place the imprimatur of the Court of Appeals on the definition of mistake or error that Judge Davidson had earlier hammered out for this Court in Boyce v. Sembly. A significant part of the Dorsey opinion, 292 Md. at 356-359, consisted of extensive quotation, with approval, from the Boyce v. Sembly opinion, 25 Md. App. at 50-53.

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A part of that Boyce v. Sembly opinion, 25 Md. App. at 53, not yet discussed in this opinion, and quoted with approval by the Dorsey opinion, observed:

The Court of Appeals and this Court have stated that an opinion, even that of an expert, is not evidence strong or substantial enough to show error in a comprehensive rezoning unless the reasons given by the witness as the basis for his opinion, or other supporting facts relied upon by him, are themselves substantial and strong enough to do so.

292 Md. at 359.

The appellate decisions holding that the testimony of an expert that a "mistake" had been made in comprehensive zoning was not sufficient to generate a fairly debatable issue as to "mistake" have done so for various reasons, sometimes for a confusing admixture of reasons in a single case. In the furtherance of analytic clarity, however, some of those reasons can be sorted out into discrete sub-groups.

a. Inadequate Expert Testimony: Conclusory or Oussi-Conclusory Opinions

A self-evident reason for rejecting as an effective catalyst an expert opinion that a mistake was made is the fact that the opinion is merely conclusory or is, at best, quasi-conclusory. Illustrative of the principle that the opinion of an expert is of little or no weight in the absence of strong supporting facts is Mayor and Council of Rockville v. Henley, 268 Md. 469, 473-74, 302 A.2d 45 (1973):

The only testimony on the question was the bald assertion by appellee's expert witness,

Mr. Dieudonne, a qualified realtor and appraiser, who simply responded to the question "do you think the present zoning is the correct zoning, R-60" by saying "No, sir, I think that is wrong." And then, when asked what would be the proper classification, answered, "I-1, and I think that would stabilize that area and I don't believe there would be an infiltration into the Lincoln Park sector of residential homes." These naked declarations, unsubstantiated by facts, are insufficient to overcome the presumption of correctness which attaches with the adoption of a comprehensive zoning plan.

See also Smith v. County Comm'r of Howard County, 252 Md. 280, 249 A.2d 708 (1969).

There have been numerous occasions when the Court of Appeals has held that the testimony of expert witnesses that there had been a mistake was not sufficient to generate a fairly debatable issue with respect to mistake. On а number of occasions reclassifications by the County Board of Appeals, finding a mistake on the basis of such opinions, were overturned. Pahl v. County Bd. of Appeals, 237 Md. 294, 206 A.2d 245 (1965); Brenbrook Const. Co. v. Dahne, 254 Md. 443, 255 A.2d 32 (1969); Creswell v. Baltimore Aviation, 257 Md. 712, 264 A.2d 838 (1970); Stratakis v. Beauchamp, 268 Md. 643, 304 A.2d 244 (1973). On another occasion, it was a reclassification by the Zoning Commissioner of Baltimore County based on an unsupported expert opinion that was held to have been without the benefit of substantial evidence of mistake. Agneslane, Inc. v. Lucas, 247 Md. 612, 233 A.2d 757 (1967).

b. Inadequate Expert Testimony: Predicated on Economic Disadvantage

Sometimes, by contrast, the expert opinion that a "mistake" had been made in the comprehensive zoning was based on a clearly identified and extensively developed predicate. Even in some of those cases, however, the expert opinions have been dismissed as insufficient to generate a fairly debatable issue as to "mistake" for the very different reason that the predicates themselves are immaterial on the issue of actual "mistake" or "error," as those precise terms of art are used in zoning law.

One particular type of support for an expert opinion that has generally been found to have been inadequate to show "mistake" is the expert's conclusion that the Comprehensive Zoning in question will render the property unsuitable for development at all or, at least, unsuitable for development with economic feasibility.

In Coppolino, the developers had offered as an alternative, or additional, reason why the County Council had been guilty of a mistake in downzoning the subject property the testimony of a "number of expert witnesses express[ing] the opinion that the subject property was 'unsuitable' for development in the D.R. 5.5 zone because of its topography, rock outcroppings, and proximity to Ebenezer Road and the proposed Perry Hall Boulevard." 23 Md. App. at 370. This Court pointed out, however, that the experts had "conceded that single-family houses could be developed on the property" and concluded that the mere fact that the property might not be suitable for development in a more economically advantageous way was not evidence of mistake in the Comprehensive Zoning. In overturning the reclassification by the County Board of Appeals, we

held that the evidence was not sufficient to make the issue of mistake fairly debatable. 23 Md. App. at 371-72.

In a similar vein, Beachwood argues in this case that the County Council was guilty of a "mistake" in zoning the property D.R. 1 because of its "erroneous assumption" that the property could be developed in an economically feasible way with that density. Beachwood's brief before us is very clear in this regard:

A final <u>erroneous assumption</u> of the Council was that the property could be developed at all at a D.R. 1 density. As the testimony indicated, the property needed public sewer service. If the cost of the road improvements required by the County after the fiftieth unit is built is added to the cost of the sewer needed both to serve the project and the surrounding houses, then the infrastructure alone mandates that to have marketable prices on homes more density than D.R. 1 permits is necessary to build the project. Without the D.R. 3.5 zone making the improvements to the roads and bringing sewer to the site becomes virtually impossible. These financial considerations alone would justify rezoning based on the incorrect assumptions of the Council. (Emphasis supplied.)

Indeed, in Coppolino, the County Board of Appeals had gone so far as to rule not simply that the comprehensive downzoning had been a "mistake" but also that it had amounted to a confiscation of the property. In pointing out that economic disadvantage is not synonymous with confiscation, we concluded:

The Court of Appeals and this Court have stated that an opinion, even that of an expert, is not evidence strong or substantial enough to show error in the comprehensive rezoning or confiscation unless the reasons given by the expert as the basis for his opinion, or other supporting facts relied upon

by him, are themselves substantial and strong enough to do so. Moreover, the Court of Appeals has repeatedly held that in order to obtain a rezoning on the basis of an unconstitutional confiscation, an applicant must show that he has been deprived of all reasonable use of his property and that it cannot be used for any of the permitted uses in the existing zone. Viewed in this light the expert testimony presented here does not pass muster.

23 Md. App. at 371-72. (Citations omitted) (Emphasis supplied). Cabin John, Ltd. v. Montgomery County, 259 Md. 661, 671, 271 A.2d 174 (1970), also observed:

Neither the fact that rezoning may result in a more profitable use of land nor that hardship may follow the retention of an existing classification is sufficient justification for rezoning.

In Boyce, the developers, in an effort to show that the county Board of Appeals had been correct in finding a mistake in the Comprehensive Zoning, offered a number of conclusory arguments as to why "the subject property was then unsuitable for residential development." 25 Md. App. at 53-54. In addition, they offered a "witness qualified in the fields of real estate and real estate appraisal and the contract purchaser of the subject property [who] testified that it was 'unsuitable' for residential development because of its physical characteristics and its proximity to the railroad tracks." 25 Md. App. at 54. This Court concluded that the evidence was not legally sufficient to make the issue of mistake or error fairly debatable for two reasons. The second of these, the absence of any evidence that the County Council had been unaware of these conditions, has already been discussed.

We offered as our initial reason, however, the fact that the conclusory arguments and even the quasi-conclusory testimony of the expert had not been enough to overcome the strong presumption of validity in the Comprehensive Zoning:

First, because the conclusion that the subject property was unsuitable for residential development was not supported by adequate reasons or facts, it was entitled to little if any probative value. It was not sufficiently strong and substantial to overcome the presumption of validity of the comprehensive zoning.

25 Md. App. at 55.

c. Inadequate Expert Testimony: Predicated on Incompatibility With Surroundings

It is frequently the case, as in the situation now under review, that an expert opinion that a mistake was made in the comprehensive zoning is based on the expert's observation that the zoning of the parcel in question is incompatible with the zoning of surrounding tracts or parcels. Frequently, that conclusion as to incompatibility is buttressed by graphs, charts, diagrams, maps, and aerial photographs. Incompatibility in the end result, however, has been held to be immaterial on the issue of a mistake or error in the County Council's decisional process.

In Howard County v. Dorsey, a "witness qualified in the field of planning, after describing the subject property and its environs, testified that it was a mistake to classify the subject property in the R-12 zone because 'the property is surrounded by industrial.'"

The Court of Appeals concluded that expert opinion, based only on the incompatibility between the residential property in question

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and the surrounding industrial property was "insufficient to make the question of 'error' or 'mistake' fairly debatable." 292 Md. at 364-65.

The Howard County v. Dorsey situation, in that regard, bears a strong resemblance to the situation before us, in which a similar opinion as to "incompatibility" also played a major role. In this case, the only testimony before the County Board of Appeals to the effect that the County Council's 1992 Comprehensive Zoning had been a mistake was that of Samuel Crozier, an expert land planner. Indeed, this was the only basis for the finding by the Board of Appeals that a mistake had been made by the County Council:

The Board . . . finds that the testimony presented by the Petitioner and, particularly, the expert testimony given by Mr. Crozier with his supporting reasons, supports a finding of fact that the subject property was erroneously zoned by the County Council.

Early in its majority opinion, the County Board of Appeals summed up in full detail the testimony of Mr. Crozier:

Samuel Crozier, an expert land planner, testified that he has studied this site, and it was his opinion that the D.R. 1 zoning is in error. He noted that one has to go almost 5 miles from the site to find any D.R. 1, which makes it totally out of character with the area. He further testified that it is recommended for low density urban residential, and low-density refers to 3.5. He further testified that the Growth Management Plan should conform to the "built-out" area nearby, and that D.R. 1 does not comply with this and D.R. 3.5 does. It was his expert opinion that there is no reason to zone this property D.R. 1 since all services are available, there are no problems D.R. 3.5 under the documented site plans, the proposed use is compatible with all other uses in the area, and D.R. 3.5 and not D.R. 1 was the proper zoning for this parcel. (Emphasis supplied.)

A large part of Mr. Crozier's testimony consisted simply of describing the zoning of surrounding tracts and pointing out that the nearest D.R. I zone was approximately five miles away. His conclusion was that the proposed reclassification of D.R. 3.5 was compatible with the surrounding area and not that the comprehensive D.R. 1 zoning was, per se, incompatible. In any event, all of the facts as to which Mr. Crozier testified would not establish mistake or error for the reason noted by Howard County v. Dorsey:

Thus, there was no evidence to show that the initial premises of the Council with respect to the subject property were incorrect and that consequently the classification assigned at the time of the comprehensive rezoning was improper.

When all is said and done, this record is totally devoid of any evidence to show that at the time of the comprehensive zoning of the subject property the Council failed to take into account any facts or circumstances then existing relevant to the subject property and its environs so that its initial assumptions and premises in determining the appropriate classification for the subject property were erroneous.

292 Md. at 365-66.

With respect_to-the failure of an applicant for rezoning to show mistake or error based on alleged incompatibility with surrounding zoning classifications, *Boyce* similarly concluded:

There is not an iota of evidence in the record to indicate that at the time of the comprehensive zoning of the subject property the Council was unaware of either the zoning reclassifications or development which had taken place between 1955 and 1971.

25 Md. App. at 56.

d. Inadequate Expert Testimony: Predicated on Divergence From Master Plan

The testimony of Mr. Crozier also made it clear that his conclusion that the 1992 Comprehensive Zoning had been a mistake was based in part on its failure to conform to the Baltimore County Master Plan and with the attendant Growth Management Program Guidelines. He pointed out that the Baltimore County Master Plan, adopted in February of 1990, labeled the area under discussion as "Low Density Urban Residential," which is defined as zoning between D.R. 3.5 and D.R. 5.5. He further pointed out that the Baltimore County residential zoning guidelines state that residential zoning should be equivalent to the existing ("built out") density within the surrounding area or neighborhood and that the surrounding densities to the Beachwood tract were considerably greater than D.R. 1.

Howard County v. Dorsey, however, was very emphatic that

there is no requirement that a comprehensive zoning plan must conform to the recommendations of an applicable master plan.

292 Md. at 363. Holding to a similar effect was Pattey v. Board of County Commissioners, 271 Md. 352, 360, 317 A.2d 142 (1974):

As we have said, a master plan is only a guide and is not to be confused with a comprehensive zoning, zoning map, or zoning classification.

In Montgomery County v. Woodward & Lothrop, 280 Md. 686, 704, 376 A.2d 483 (1977), Chief Judge Murphy observed:

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Nor is there any requirement, absent a statute, that the map amendment must adhere to the recommendations of the General or Master Plan. Such land use planning documents represent only a basic scheme generally outlining planning and zoning objectives in an extensive area, and are in no sense a final plan; they are continually subject to modification in the light of actual land use development and serve as a guide rather than a strait jacket.

See also People's Counsel v. Webster, 65 Md. App. 694, 701-03, 501 A.2d 1343 (1986); Floyd v. County Council of Prince George's County, 55 Md. App. 246, 258-59, 461 A.2d 76 (1983).

A definitive statement on this subject is that found in Nottingham Village v. Baltimore County, 266 Md. 339, 292 A.2d 680 (1972). In that case, Nottingham Village and The Rouse Company sought a declaratory judgment that the comprehensive zoning promulgated by the Baltimore County Council in 1971 was invalid because of its failure to conform to the Master Plan for Baltimore County. In rejecting the argument made by the developers, Judge Singley stated for the Court of Appeals:

Underlying this argument is a common misconception--a confusion between planning function, the end product of which is the Master Plan, specifically provided for in County Code, Art. II. Planning, §§ 22-12 through 22-17, and the zoning function, covered by Code, Art. III. Zoning, §§ 22-18 22-31. Zoning or rezoning through accordance with a comprehensive plan is a legislative function. There is no requirement that the comprehensive plan adopted by the conform to legislative body must_ recommendations of the Master Plan.

266 Md. at 354. (Citations omitted) (Emphasis supplied).

Particularly pertinent to the case now before us was the further observation of the Court of Appeals:

While it is true that other jurisdictions have by statute required that zoning ordinances be in accordance with the master plan, Baltimore County has not.

Id. (Citation omitted).

No Fairly Debatable Issue As To "Mistake" In Comprehensive Zoning

We hold that the evidence before the County Board of Appeals was not sufficient to generate a fairly debatable issue that there had been a mistake in the 1992 Comprehensive Zoning of the County Council. Absent such mistake, the County Board of Appeals should not have granted the rezoning classification and the Circuit Court for Baltimore County should not have affirmed that action by the Board of Appeals.

The fact that the 1992 Comprehensive Zoning departed from earlier comprehensive zonings is of no consequence. The fact that the D.R. 1 zoning is out of character with surrounding zoning does not per se establish a mistake on the part of the County Council. The fact that the County Master Plan, as a set of guidelines, may have suggested a more intensive zoning does not establish a mistake on the part of the County Council. The fact that a more intense residential zoning would have been compatible with surrounding circumstances does not, ipso facto, establish that the D.R. 1 zoning was not also compatible. The fact that a more intense residential zoning would have made development of the tract more economically

advantageous to the property owner does not establish a mistake in the Comprehensive Zoning.

Independent of all other considerations, moreover, is the over-arching consideration that none of the circumstances argued by Beachwood were shown to have been unknown to the County Council at the time of the 1992 Comprehensive Zoning. It follows that the issue of mistake was not fairly debatable before the County Board of Appeals and its decision cannot be sustained.

People's Counsel v. Mockard: The Procedural Flaw

Our reversal of the Circuit Court for Baltimore County and, indirectly, our overturning of the zoning reclassification granted by the Baltimore County Board of Appeals rests on two independent grounds. We conclude not only that the <u>decision</u> of the County Board of Appeals was <u>substantively flawed</u> because the issue of "mistake" was not fairly debatable, but also that the <u>opinion</u> announcing the decision was <u>procedurally flawed</u>. Dispositive of this fatal procedural flaw is our decision in *People's Counsel for Baltimore County v. Mockard*, 73 Md. App. 340, 347-51, 533 A.2d 1344 (1987).

BALTIMORE COUNTY CODE (1978), § 2-356(j) explicitly spells out what must be done by the County Board of Appeals before the zoning of a property may be reclassified:

(j) Findings prior to reclassification. Before any property is reclassified pursuant to this section, the board of appeals must find . . .

Subsection (j)(1), as has already been discussed, requires an explicit finding of either "a substantial change in the character of the neighborhood" or "that the last classification of the property was established in error." It is subsection (j)(2) that then sets forth in detail a list of the factors that must be considered and as to which findings must be made. The factors must be considered and the findings must be made, moreover, both with respect to the finding of change or mistake, in the first instance, and also with respect to the prospective reclassification of the property that is to be made, in the second instance. Subsection (j)(2) requires a finding:

[t]hat the prospective reclassification of the property is warranted by that change or error. Any finding of such a change or error and any finding that the prospective reclassification Warranted may be made only consideration of factors relating to the purposes of the zoning regulations and maps, including but not limited to all of the following: Population trends; availability and adequacy of present and proposed transportation facilities, water-supply facilities, sewerage, solid-waste-disposal facilities, schools, recreational facilities, and other public facilities, compatibility of uses generally allowable under the prospective classification with the present and projected development or character of the surrounding area; any pertinent recommendation of the planning board or office of planning and zoning; and consistency of the current and prospective classifications with the master plan, the county plan for sewerage and watersupply facilities, and the capital program.

With respect to the property that was reclassified in this case, there was an additional set of procedural requirements imposed on the opinion of the County Board of Appeals. Since 1988,

most of the tract involved in this litigation has been designated as a "limited development area" within the Chesapeake Bay Critical Area. Subsection (j)(3) provides that any "reclassification pertaining to land within the Chesapeake Bay Critical Area is subject to" additional limitations. The additional limitation pertinent in this case is contained in subsection (j)(3)(b):

No reclassification may be granted unless the board has made written findings that the proposed reclassification will:

- 1. Minimize adverse impacts on water quality that result from pollutants that are discharged from structures or conveyances or that have runoff from surrounding lands;
- 2. Conserve fish, wildlife, and plant habitat; and
- 3. Be consistent with established land use policies for development in the Chesapeake Bay Critical Area which accommodate growth and also address the fact that, even if pollution is controlled, the number, movement, and activities of persons in that area can create adverse environmental impacts. (Emphasis supplied.)

The opinion of the Board of Appeals abjectly failed to satisfy the requirements of either subsection (j)(2) or subsection (j)(3)(b). Indeed, the feeble argument that Beachwood makes in this regard is based on the single sentence at the end of the Board's opinion:

The Board has carefully reviewed and considered the evidence and testimony presented in these proceedings, and finds that the testimony presented by the Petitioner and, particularly, the expert testimony given by Mr. Crozier with his supporting reasons, supports a finding of fact that the subject property was erroneously zoned by the County Council. (Emphasis supplied.)

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Its inadequacy to satisfy the Code provision is palpable. Quite aside from the almost cavalier attempt to finesse the requirement of precise and considered findings of fact by the casual incorporation of all of the testimony of Mr. Crozier into a brief allusion to it, it is transparent that even that attempted incorporation is offered only to support "a finding of fact that the subject property was erroneously zoned by the County Council." It does not even purport to deal with the additionally required companion finding that, even following a finding of error in the Comprehensive Plan, the reclassification itself was warranted. It does not, moreover, even remotely allude to the required findings of subsection (j)(3)(b) with respect to a reclassification in the Chesapeake Bay Critical Area.

In People's Counsel v. Mockard, this Court analyzed at length the requirements spelled out in subsection (j)(2) and concluded that a zoning reclassification by the Baltimore County Board of Appeals must be reversed because of the failure of the Board's opinion to satisfy the requirements of the subsection. In that opinion, Judge Rosalyn Bell very explicitly set out:

Under that provision, the Board must make two findings: 1) that there was error in the comprehensive zoning, and 2) that the prospective reclassification is warranted. Both of those findings may be made "only upon consideration of factors . . . including, but not limited to, all of the following . . . "

73 Md. App. at 347.

The appellees in that case, very much as Beachwood here, suggested that it would be enough to satisfy the subsection if the

Board, in the course of listening to the evidence, could thereby be deemed to have "considered" each of the required factors. It argued that the subsection by no means requires specific findings on the record. We squarely rejected that argument:

Appellees filed a cross-appeal, arguing that § 2-58.1(j)(2) does <u>not</u> require the Board to enter specific findings as to each factor. They claim that the Board is only required to "consider" the factors. . . .

[T]hey claim that the Baltimore County Board need only "consider" certain factors, hence the Board did not need to objectively deal with the factors. We do not agree with appellees' conclusion.

73 Md. App. at 348 (Emphasis in original).

Judge Bell analyzed in detail why clear findings of fact are necessary when dealing with appeals from administrative agencies. She quoted from *United Steelworkers of America AFL-CIO*, Local 610 v. Bethlehem Steel Corp., 298 Md. 665, 679, 272 A.2d 62 (1984):

"Judicial review of administrative action differs from appellate review of a trial court judgment. In the latter context the appellate court will search the record for evidence to support the judgment and will sustain the judgment for a reason plainly appearing on the record whether or not the reason was expressly relied upon by the trial court. However, in judicial review of agency action, the court may not uphold the agency order unless it is sustainable on the agency's findings and for the reasons stated by the agency."

73 Md. App. at 348-49.

Judge Bell pointed out that in dealing with administrative appeals, the appellate court may not supply factual findings which were not made by the administrative agency. It would only be when

the findings of the Board of Appeals were uncontradicted and where only one conclusion could be reached that a lack of such findings would not warrant remand. See also Ocean Hideaway Condominium Ass'n v. Boardwalk Plaza Venture, 68 Md. App. 650, 664-65, 515 A.2d 485 (1986); Gough v. Board of Zoning appeals for Calvert County, 21 Md. App. 697, 704, 321 A.2d 315 (1974).

It is not for us to search the record before the County Board of Appeals in an effort to construct a possible rationale that might support its zoning reclassification. Robert M. Anderson, 3 American Law of Zoning (3d ed. 1986), § 16.41 succinctly states the reason why administrative agencies are required to make express findings:

Given express findings, the court determine whether the findings are supported by substantial evidence, and whether the findings warrant the decision of the board. If no findings are made, and if the court elects not to remand, its clumsy alternative is to read the record, speculate upon the portions which probably were believed by the board, quess at the conclusions drawn from credited portions, construct a basis for decision, and try to determine whether a decision thus arrived at should be sustained. In the process, the court is required to do much that is assigned to the board, and the latter becomes a relatively inefficient instrument for the construction of a record. (Emphasis supplied.)

In the absence of required findings by the Board, the conclusion of this Court in Mockard was clear:

Hence, we hold that "consideration of factors" requires an articulation of the findings as to each of the applicable factors contained in [§ 2-356(j)(2)]. The Board must

make such findings in <u>both</u> a finding of error in the comprehensive plan and in a decision that the reclassification was warranted.

73 Md. App. at 349. (Emphasis in original).

We there rejected the finding of error in the comprehensive zoning because of the failure of the Board of Appeals to render an opinion in compliance with § 2-356(j). We held that the opinion of the Board was "conclusory in nature and lack[ed] sufficient indication of which, if any, factors the Board considered in making its determination." 73 Md. App. at 350. It is not enough, moreover, for the findings of the Board to be implicit. We made the requirement for express and precise findings very clear:

As discussed earlier, in finding error or that a reclassification is warranted, the Board must considered factors, "including, but not limited to, all of the following. . ." Section 2-58.1(j)(2). This means that, in order to make either of those findings, the Board must at least articulate its findings as to the 13 identified factors.

Id. (Emphasis in original).

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The Spectral Apparition of Contract Zoning

There hovers on the edges of this case, albeit only in the shadows, the almost spectral apparition of contract zoning. Because neither the comprehensive zoning of the County Council nor the zoning reclassification of the County Board of Appeals expressly contains any forbidden quid pro quo, we do not treat what is before us as an actual instance of contract zoning. Somerset v. Montgomery County, 229 Md. 42, 50-52, 181 A.2d 671 (1962); Pressman v.

Baltimore, 222 Md. 330, 343-45, 106 A.2d 379 (1960). So strong, however, is the sense of the unseen presence that it ill behooves us to depart the scene without at least acknowledging the apparition.

To change the metaphor, Beachwood raises the weapon of contract zoning very gingerly. This is understandable, for it is, most assuredly, a two-edged sword. After suggesting that Baltimore County, through its Office of Planning and Zoning, sought to use the comprehensive zoning and reclassifying processes as a means to pressure Beachwood into financing an off-site traffic improvement, Beachwood, in its brief before us, noted the impropriety:

Appellants . . . may be correct in that the county's motivation and means may be improper. The comprehensive zoning process approach to this site to coerce improvements that are truly the responsibility of government was improper.

Whether the suggested contract zoning that permeates the atmosphere of this case was real or imaginary, proved or unproved, proper or improper, it is clear that the subject matter of the alleged zoning contract was an off-site traffic improvement to an intersection near the Beachwood property. Were the Beachwood property to be developed residentially, most of the residents would use, on a regular basis, the nearby intersection of Morse Road and North Point Boulevard. It is conceded by all parties that there is at that intersection an undesirable configuration that creates a potential traffic hazard.

It is not, however, a problem that would perse be created by more intensive traffic use nor one that would perse be eliminated by less intensive traffic use. It is a problem that would exist whether one car per day or 5,000 cars per day should use the intersection. It is described as a "sight-distance" problem with respect to vehicles moving onto Morse Road from North Point Boulevard and vehicles moving onto North Point Boulevard from Morse Road. Both suffer obstructions to their line of vision as they prepare to make the necessary turn.

Self-evidently, the more cars that pass through the intersection, the greater the likelihood that an accident may occur. Although the traffic problem is not the result of traffic volume, an increase in traffic volume would quite obviously exacerbate the problem, just as a decrease in traffic volume would quite obviously mitigate it.

Nowhere in the majority opinion of the Board of Appeals is there an indication that its finding that the County Council's comprehensive zoning had been a mistake in any way hinged on the existence of the traffic hazard or its possible amelioration. Notwithstanding that silence on the subject in explaining the rationale for its-decision, the majority opinion, in summarizing the testimony of the witnesses before it, was nonetheless very generous in its allusions to the traffic situation.

One key witness before the County Board was John J. Stamm, a civil engineer working with Beachwood in its projected development of the property. It was Mr. Stamm who estimated that the cost for

the traffic improvement would be in the neighborhood of \$125,000. It was through Mr. Stamm that there was introduced a January 29, 1993 letter from the Maryland State Highway Administration with respect to Beachwood's site plan for the property and with respect to the traffic problem. That letter included the following paragraph:

SHA currently has no plans for funding improvements to MD 151 within this area. The developer's representative indicated a willingness to fund the above improvements in previous meetings. However, since the developer does not require direct access onto MD 151, we must request that the county require the developer fund and construct these improvements as a condition of plan approval.

Another key witness before the County Board was Stephen Weber, the Chief of the Division of Traffic Operations for Baltimore County. After testifying with respect to the traffic hazard and the disinclination of the State to fund any improvement to the intersection, it was Mr. Weber, in a conversation with a representative of the County Planning Office, who suggested a possible way to persuade Beachwood to pay for the traffic improvement. Mr. Weber testified:

The issue is because [that] had been offsite improvement, how could the county reasonably get those improvements from the developer?

Sometimes [they] may be successful if the developer is willing to cooperate, but there's no certainty that the county would be able to force the developer to do offsite improvements to rectify the problem.

When I spoke with Ms. MacMillan, I said, well, certainly, one very [roundabout] way that could possibly be done, to force the

S. C. C.

issue, would be to go ahead and recommend downzoning of the property based on the current limitations; if they could come back to the cycle zoning process and certainly they could submit a documented site plan showing how the traffic would be accommodated, or what geometric improvements could be made to safely accommodate that additional development, and that way those improvements could then be tied to the development plan showing how, one, how the improvements would be able to support the proposed development.

I'm not saying that's a good way of doing it, but it was certainly one method that could be done or used. (Emphasis supplied.)

A third witness before the Board of Appeals was Jeffrey Long, a planner with the Baltimore County Office of Planning and Zoning. His testimony indicated that the positions taken by his office implemented the strategy suggested by Mr. Weber. The members of the planning staff and the Planning Board itself took various positions on the zoning of the Beachwood property, sometimes in favor of the comprehensive downsizing and at other times in favor of the requested reclassification. One question to Mr. Long was very point blank, "Would it be safe to say that the planning staff and planning board agreed to disagree?" He frankly responded, "Yes, I think that would be a fair statement to make." His position was to be against the proposed reclassification to D.R.

3.5 initially, but then to change positions once Beachwood had committed itself to funding the improvement to the off-site intersection:

Well, obviously, rezoning to D.R. 3.5 would result in increased trips. It would, you know, exacerbate any existing deficiency.

A ...

So we felt it was essential to have the developer agree to make these improvements prior to any rezoning of the property.

And that was accomplished through the filing of the documented site plan. (Emphasis supplied.)

one reason the allusions to contract zoning in this case have such a phantom-like quality is that neither the case law, here and abroad, nor the academic commentary seems to have a firm grip on exactly what is meant by the term "contract zoning" or by its doctrinal doppelganger, "conditional zoning." In the broadest of senses, both involve some sort of understanding between the governmental unit and the developer, whereby the doing of certain acts by the developer will result in favorable rezoning treatment by the governmental unit. Beyond that, the definitions begin to blur.

Some academic authorities treat "contract zoning" as the more generic phenomenon, with "conditional zoning" as a special instance thereof. Donald G. Hagman, Urban Planning and Land Development Control Law (1975), \$ 94 at 74-75. Others treat "conditional zoning" as the generic phenomenon, with "contract zoning" as the special instance. Robert M. Anderson, 2 American Law of Zoning (3d ed. 1986), \$\$ 9.20 and 9.21 at 159-72. Yet other authorities treat the two terms as closely-related but distinct phenomena, with "contract zoning" being beyond the pale of legality but with "conditional zoning" slowly emerging therefrom into general acceptance. Arden H. Rathkopf and Daren A. Rathkopf, 2 The Law of Zoning and Planning, \$ 29A.03 at 29A-22 through 29A-30.

The Maryland cases have treated "contract zoning" narrowly as a situation wherein the developer of property enters into an express and legally binding contract with the ultimate zoning authority. In such circumstances, the Maryland cases have not hesitated to hold such contract zoning to be null and void. Part of the reason why the governmental authority may not enter into such a contract is because the governmental unit may not bargain away its future use of the police power. Maryland's treatment of contract zoning is consistent with the definition of "illegal contract zoning" set out in Arden H. Rathkopf and Daren A. Rathkopf, 2 The Law of Zoning and Planning, § 29A.03[b] at 29A-25:

Illegal contract rezoning is said to involve the process by which a local government enters into an agreement with a developer whereby the government exacts a performance or promise from the developer in exchange for its agreement to rezone the property. The developer may agree to restrict development of the property, make certain improvements, dedicate a portion of land to the municipality, or make payments to the municipality. Numerous state court decisions have held such express or implied agreements invalid as illegal contract zoning. (Footnotes omitted.)

The first Maryland case to find that illegal contract zoning had occurred was Baylis v. City of Baltimore. 219 Md. 164, 148 A.2d 429 (1959). The vocabulary was still in a state of flux but the decision was clear. The Baltimore City Council, the repository of ultimate zoning authority, granted a zoning reclassification to a property owner, conditioned on a binding agreement by the property owner to use the benefit of the reclassification only for the

purpose of building a funeral home. The City Council Ordinance that granted the reclassification expressly incorporated the agreement by the property owner that was the consideration for the reclassification:

In its final form, the Ordinance made the reclassification conditional upon the execution of an agreement, set out in the Ordinance, between the owners and the City, and the recording of such agreement among the Land Records of Baltimore City, so as to be binding upon the property owners, their successors, heirs and assigns.

The agreement provided that, in consideration of the rezoning, the owners would develop and maintain the property as a funeral home only . . .

219 Md. at 166.

Without using the term "contract zoning" per se, the Court of Appeals held that the zoning was illegal. Among its reasons was the fact that "the resulting 'contract' is nugatory because a municipality is not able to make agreements which inhibit its police powers." 219 Md. at 170.

In stark contrast to Baylis v. City of Baltimore is Pressman v. City of Baltimore, 222 Md. 330, 160 A.2d 379 (1960). Whereas in Baylis the Baltimore City Council had entered into an express zoning contract, in Pressman it did not. The property owners, Food Fair and Stewart's, did, however, enter into a formal and undisputed Agreement with the Baltimore City Planning Commission. The property owners made certain commitments "in consideration of the

Planning Commission's approval of the rezoning." Pursuant to that Agreement, the Planning Commission recommended to the City Council that the rezoning be granted. The rezoning was subsequently granted.

In declining to hold that the Agreement constituted illegal contract zoning, the Court of Appeals restricted the application of the ban on contract zoning to those instances wherein the legislative body itself, as opposed to some other governmental agency, is a party to the illegal contract. Chief Judge Brune pointed out for the Court of Appeals:

Whatever the reasons for the Council's omission of reference to the Agreement may have been, it is clear that in this case, unlike Baylis, the legislative body has not itself sought to impose conditions and has certainly not stated that its own action is dependent upon compliance with any conditions.

222 Md. at 343 (Citations omitted).

The Court of Appeals also distinguished the Planning Commission, which possessed only the power to make recommendations, from the City Council, which alone possessed the power to pass a zoning ordinance:

We thus have a situation in which the City Council was not bound by the recommendations of the Planning Commission, in which that Commission sought to impose conditions that it was not authorized to exact and that are therefore invalid, and in which the Council did not undertake or attempt to incorporate the invalid conditions in its rezoning ordinances and did not even refer to them.

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In Beshore v. Town of Bel Air, 237 Md. 398, 206 A.2d 678 (1965), the Court of Appeals also held that no illegal contract zoning had occurred. In that case, however, it was not because the alleged contract had not been struck between the property owner and the arm of government empowered to carry out the ultimate rezoning. The Town Commissioners of Bel Air were so empowered. What was missing in Beshore was definitive evidence that the Bel Air Town Commissioners had entered into such an illegal zoning contract. The evidence put forth by the protestants was circumstantial, based essentially on the principle of post hoc, ergo proper hoc. The Court of Appeals commented on the speculative nature of the evidence:

There is no evidence supporting appellants' assertion that the property owners and the town of Bel Air entered into any agreement in regard to the zoning of their respective properties. The most that can be extracted from the record is that the property owners let their desires in regard to zoning be known and that the town fulfilled these desires. Ordinance No. 157 makes no reference to any agreement and cannot be termed special interest legislation since it applies to any property which is proposed to be annexed. Nor does Resolution No. 20 make any reference to any agreement, or state any conditions to the annexation or zoning.

237 Md. at 415-16.

The Court of Appeals attached great significance to the fact that the zoning act in question contained no reference to the allegedly illegal agreement:

We think the case before us presents no problem of zoning by contract, since the legislative body of Bel Air has made no provision in Ordinance No. 157 or Resolution No. 20 conditioning their action in zoning on

annexation upon any acts of the property owners.

237 Md. at 416.

In the case before us, Beachwood argues that the Baltimore County Council, in its 1992 comprehensive zoning, somehow engaged in illegal contract zoning. What pertinence that would have, even if true, to the limited decision before the County Board of Appeals is not clear. More to the point, however, is the fact that, just as in *Pressman* and just as in *Beshore*, there was no reference in the 1992 comprehensive zoning act to any agreement with Beachwood or to the fact that the 1992 zoning was in any was related to any past or future commitment by Beachwood. The evidence of contract zoning is even more bereft than was such evidence in *Beshore*, which was found to have been only speculative.

The point that Beachwood seems to be trying to make is that the Baltimore County Planning Board brought pressure to bear on Beachwood, thereby forcing Beachwood to enter into an unlawful zoning contract with the Planning Board. The contract would have been a favorable zoning recommendation by the Planning Board in consideration of a \$125,000 commitment by Beachwood to improve the intersection. Where Beachwood seeks to go with the argument is by no means clear, especially in the light of Greenbelt v. Bresler, 248 Md. 210, 236 A.2d 1 (1967). The situation of the Baltimore County Planning Board in this case is indistinguishable from the situation of the City of Greenbelt in that case. In Bresler, the ultimate zoning authority resided in the Prince George's County Council, as

in this case it resided in the Baltimore County Council. In that case, the Prince George's County Council was required, before engaging in any reclassification of its zoning, to submit the proposed change "to the governing body of the municipality (the City of Greenbelt) for its recommendation." 248 Md. at 215. Such a recommendation, however, was only of "an advisory nature . . . and not binding on the [County] Council." Id.

In the Bresler case, the Court of Appeals held that the City of Greenbelt had entered into a binding contract with the Breslers. "As an inducement to obtaining favorable recommendation from the City, the Breslers entered into two agreements." 248 Md. at 212. In one of those agreements, the Breslers entered into a sealed declaration of covenants and recorded them among the Land Records. In the second agreement, the Breslers agreed to donate 3.3 acres of land to the City of Greenbelt for use as a park and recreational area. "This agreement was expressly conditioned upon the favorable granting of the requested rezoning." 248 Md. at 213. Pursuant to the agreements, the City of Greenbelt forwarded its favorable recommendation to the Prince George's County Council, which, in turn, granted the Bresler's rezoning application. The Breslers subsequently argued that the agreements were null and void as an The Court of Appeals instance of illegal contract zoning. thoroughly reviewed the case law dealing with illegal contract zoning and pointed out that contract zoning only takes place when the contract is with the ultimate zoning authority and not with some other governmental entity that is only empowered to make recommendations:

However all of the foregoing cases involve a contract with the deciding authority, the agency which had final control over the granting or denial of the requested zoning reclassification. We think there is a significant distinction between those cases where the contract is made between the developer and the zoning authority, and those cases involving a contract entered into in good faith between the developer and a municipality which does not have control over the classification and whose authority is limited to recommendation.

248 Md. at 215-216.

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A similar result was reached in Funger v. Town of Somerset, 249 Md. 311, 239 A.2d 748 (1968). The Court of Appeals agreed that a contact had been entered into by the property owners and the Town of Somerset. The Town of Somerset agreed to recommend to the Montgomery County Council the rezoning sought by the property owners. The property owners, in return, made commitments to the Town of Somerset. Significantly, however, the contract was only made with a governmental entity with the power to pass on a recommendation and not with a governmental entity empowered to enact the rezoning. The Court of Appeals held, citing Greenbelt v. Bresler, "This agreement was valid and was not contract zoning." 249 Md. at 328.

Because it is the only form of suspect zoning charged by Beachwood in this case, we have confined our analysis to contract zoning specifically and not to conditional zoning generally, a full

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analysis of which must abide some future occasion. See, however, Wakefield v. Kraft, 202 Md. 136, 96 A.2d 27 (1953); Rose v. Paape, 221 Md. 369, 376-77, 157 A.2d 618 (1960); Carole Highlands Citizens Assoc. v. Prince George's County, 222 Md. 44, 158 A.2d 663 (1960); Montgomery County v. Nat'l Capital Realty, 267 Md. 364, 373-75, 297 A.2d 675 (1972); Bd. of County Commr's v. Holtz, 65 Md. App. 574, 501 A.2d 489 (1985); People's Counsel v. Mockard, 73 Md. App. 340, 343-47, 533 A.2d 1344 (1967).

Whatever may have been the twistings and turnings of the Planning Board, there is no suggestion, let alone compelling evidence, and certainly no suggestion in the majority opinion of the Board of Appeals that the County Council, in its comprehensive zoning of 1992, was implicated in those twistings and turnings. There was no evidence that the County Council was involved in any scheming and plotting, let alone any contract zoning, to procure funding for the desired highway improvement. For all of the reasons discussed, the allegation of improper contract zoning is a non-issue in this case.

were the ban on contract zoning far broader in its sweep, as seems to be urged by Beachwood, the allegation of contract zoning in this case would, indeed, be a two-edged sword. If we were to speculate that it was not the Planning Board specifically but Baltimore County generally, operating through all of its governmental arms, that sought to enter into a contractual relationship with Beachwood, we might have an instance of contract zoning far more subtle and far more devious than any that we have

thus far encountered in the case law. Ordinarily, a disfavored zoning contract consists of a single governmental agency offering favorable zoning in return for a commitment by the property owner.

The speculative scheme in this case, by contrast, would involve two separate actions by the County government undertaken by two different arms of that government. The first would consist of the County Council's taking away of preexisting favorable zoning. The second would then consist of the Board of Appeals's offering to give it back, totally or nearly, in return for a \$125,000 contribution to highway improvement. Ironically, Beachwood charges the County Council with engaging in forbidden contract zoning even as the appellants charge the Board of Appeals and Beachwood with violating the same taboo.

If the plot were as widespread as the appellants' and the appellee, in combination, suggest, Beachwood would find itself on the horns of a dilemma. If the comprehensive zoning of the County Council could be faulted for having set up an illegal contract zoning "deal," then the reclassification by the County Board of Appeals could with equal fervor be faulted for having consummated that "deal." Mercifully, this is a non-issue.

JUDGMENT REVERSED; COSTS TO BE PAID BY APPELLEE.

REPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 239

September Term, 1995

PEOPLE'S COUNSEL FOR BALTIMORE COUNTY, et al.

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BEACHWOOD I LIMITED PARTNERSHIP

Moylan, Wenner, Cathell,

JJ.

Concurring Opinion by Cathell, J.

Filed: December 1, 1995

I agree with that portion of the opinion that holds that the Board, in its reclassification, failed to make sufficient findings required by the Chesapeake Bay Critical Area law. While the case law as to findings runs the gauntlet from "complete and comprehensive" to "findings sufficient to apprise one of the reasons for an administrative decision," what occurred here, in respect to the additional requirements of the "critical area" law, fails to meet any "findings of fact conclusions of law" standard. Thus, while I do not necessarily agree with all of the reasoning of the balance of the opinion nor with its interpretations of the late Judge Davidson's triad of cases, i.e., Coppolino, Boyce, Dorsey, I concur with the result reached. I also would reverse.

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LIST OF PHOTOGRAPHIC EXHIBITS FOR

CASE NO. R-95-137, CYCLE IV, ITEM 2 LARRY E. KNIGHT, INC. 12200 GLYNOWINGS DRIVE MARCH 22, 1995

- 1. GLYNOWINGS DR. AT KNIGHT CONCRETE GATE LOOKING SOUTH WEST AT SUBJECT PROPERTY
- 2. GLYNOWINGS DR. AT KNIGHT CONCRETE GATE LOOKING WEST AT ADJACENT PROPERTY
- 3. GLYNOWINGS DR. AT KNIGHT CONCRETE GATE LOOKING NORTH AT ADJACENT TOWNHOUSES
- 4. GLYNOWINGS DR. AT KNIGHT CONCRETE GATE LOOKING NORTH EAST AT SWM POND
- 5. GLYNOWINGS DR. AT KNIGHT CONCRETE GATE LOOKING EAST AT ADJACENT TOWNHOUSES
- 6. CORNER OF GLYNOWINGS DR. AND TIMBER GROVE RD. LOOKING NORTH WEST OVER SWM POND AT KNIGHT PROP
- 7. CORNER OF GLYNOWINGS DR. AND RED MILE CT. LOOKING WEST AT SUBJECT PROPERTY
- 8. RAINDROP CIR. LOOKING SOUTH WEST PAST EXISTING HOUSES AT SUBJECT PROPERTY
- 9. ST GEORGES STATION RD. LOOKING SOUTH WEST AT SUBJECT PROPERTY
- 10. FRONT OF KNIGHT CONCRETE BUILDING LOOKING NORTH AT GLYNOWINGS DR.
- 11. SOUTH EAST SIDE OF KNIGHT CONCRETE BUILDING LOOKING EAST AT TIMBER GROVE RD.
- 12. KNIGHT CONCRETE YARD LOOKING NORTH EAST AT PIRARO RESIDENCE
- 13. KNIGHT CONCRETE YARD LOOKING NORTH EAST AT PIRARO PROPERTY
- 14. NORTH EAST PROPERTY LINE LOOKING SOUTH AT FRONT OF EXISTING BUILDING
- 15. NORTH EAST PROPERTY LINE LOOKING SOUTH WEST AT FRONT OF EXISTING BUILDING
- 16. NORTH EAST PROPERTY LINE AT GATE LOOKING SOUTH AT FRONT OF EXISTING BUILDING
- 17. AGGREGATE HOPPER LOOKING SOUTH WEST AT FRONT OF EXISTING BUILDING
- 18. AGGREGATE HOPPER
- 19. AGGREGATE HOPPER LOOKING NORTH WEST AT FRONT OF EXISTING BUILDING
- 20. SOUTH WEST PROPERTY LINE AT RAIL ROAD TRACKS LOOKING SOUTH WEST
- 21. SOUTH WEST PROPERTY LINE AT RAIL ROAD TRACKS LOOKING WEST

Peritoner's Ex. 10
Height + ARE REGULATIONS

AREA REG	ACTUAL	ML REG	VIOLATION	SEREG	Ulocal
Height.	32' EUE 40' PEAK	. 40'	,	16'	YES 1
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MINIMUM LOT AREA	14.6 AC	N R	-	214	
OPEN SPACE	0%	NR		20% NET	VES .
MINLOT FRONTAGE	12251	NR		150'	
MAX BLOG LENGTH	900'x 00'	NR		400'	NES :
MAX SINGLE FACE	600 × 100	NR		200'	YES >
Land scope Buffer	0'	NR		20'	y 6 2 -
SET BACK S	-				
STREET	132'	46'		35'	
FRONT YARD	132'	46'		50'	
SIDE YARD	301	30'		20'	
CUM, SIDEYARD	690'+30' 720'	P0'		NR	
REAR YARD	104'	40!		50'	
FROM DR ZONE	1041	1001	:	50'	
Floor Area Rotio	12.26%	5.0%	-	50%	
Pork-Lood Privo From R	251	2.5.		75'	765 S
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outside Storage	y ES.	w screen		NOTALLOWER	
		-			

Petitioner's Ex. 11

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Baltimore County DATE: April 24, 1992

Planning Board Members

FROM:

P. David Fields, Director Office of Planning & Zoning

SUBJECT: AMENDMENTS AND REVISED RECOMMENDATIONS BY STAFF -

THIRD COUNCILMANIC DISTRICT CZMP ISSUES

This report presents amendments and corrections to the Log of Issues dated March, 1992 for the Third Councilmanic District. Modifications to the staff preliminary recommendations are also identified below. These revised recommendations by staff are based on information presented at the Planning Board's Public Hearing on April 9, 1992, and related written documentation. The revised recommendations, together with the preliminary recommendations on the remaining issues, comprise the final recommendations by the planning staff on the zoning issues in the Third District.

Issue No.	Amendments/Revised Recommendations
3-001	Correct "requested zoning" from RCC to BL-CR. Amend staff recommendation to BL-CR.
3-004	Amend "staff recommendation" to R.O. or BL or D.R. 3.5. Add to comment column, "Subject to continued discussion among community, County agencies and applicant."
3-010	Add comment "Subject to further discussion between County agencies and property owner."
3-025	Correct "staff recommendation" from BM-CR to BL-CR. Add to comment column, "Amended 4/8/92."
3-030	Amend "staff recommendation" to BM.
3-048	Correct acreage from 0.03 to 0.30 acres.

Amendments and Revised Recommendations By staff Third Councilmanic District CZMP Issues Page 2

3-049	Amend "staff recommendation" to RC $4 - 0.41$ acres.
3-076	Amend "staff recommendation" to BM-CR.
3-087	Amend "requested zoning" from BL-CR to RCC and amend "staff recommendation" to RC 5 or RCC. Add to comment column "Amended by petitioner 4/9/92," and "subject to continued discussion among community, County agencies, and petitioner."
3-105	Amend "staff recommendation" as follows: D.R. 10.5 - 40.63, D.R. 3.5 - 18.81 or D.R. 16 - 40.63, D.R. 5.5 - 18.81. Add to comment column, "subject to continued discussion among community, County agencies and applicant."
3-114	Amend "staff recommendation" to $0-1 - 6$ acres.
3-122	Amend "staff recommendation" to BR-CR - 1.30, R.C. 2 - 3.30.
3-131	Delete comment "Subject to continued discussion applicant."
3-137	Amend "staff recommendation" to D.R. 3.5 - 10.84 acres.
3-144	Add comment "Withdrawn by petitioner 4/6/92."
3-157	Amend "staff recommendation" to RC 2. Delete "comments."
3-166	Amend "staff recommendation" as follows: 0-2 - 48.76 acres, OT 4.14 acres, or D.R. 10.5 - 52.90 acres.
3-167	Amend "staff recommendation" to ML-IM. Delete "comments."

Amendments and Revised Recommendations By staff Third Councilmanic District CZMP Issues Page 3

3-173	Amend "staff recommendation" to O-1 or BL. Add to comment column "subject to continued discussion among community, County agencies and applicant."
3-175	Add comment "Subject to continued discussion among community, County agencies, and applicant."
3-176	Amend "requested zoning" as follows: D.R. 2 - 28.95 acres, D.R. 5.503 acres, D.R. 10.5 - 9.15 acres, R.C. 529 acres, RO - 2.80 acres, 0-1 or SE - 10.02 acres. Add in comment column "amended by petitioner 4/1/92."
3-177	Amend "staff recommendation" to D.R. 3.5. Delete "comments."
3-182	Amend "staff recommendation" to BM. Delete "comments."
3-184	Correct "total acres" to 43, and acreage totals in "existing" and "requested" zoning columns. Correct "staff recommendations" to RC 4 - 11 acres, and RC 2 - 32 acres. Add comment, "Amended by staff 4/8/92."
3-190	Amend "staff recommendation" to BL-CR or RC 5. Add to comment column "subject to continued discussion among community, County agencies and property owner."
3-192	Amend "staff recommendation" to BM.
3-196	Amend "staff recommendation" to RC 2 - 30.5, RC 4 - 81.5.

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DFARREC.S3/TXTLLF

1992 COMPREHENSIVE ZUNING HAP Request For Zoning Change Applicant must present this form and required supplemental material in person

Baltimore County Office of Planning and Zoning 401 Bosley Avenue Towson, HD 21204 301-887-3480

OFFICE USE ONLY
Issue No. 3-/75 Received on 10/3/19
Fee (non-refundable) /2
Receipt No. 09446

PLEASE T	TYPE OR FRINT
Applicant Information	Property Information
LARRY E KNIGHT	7. LERNE TWIGH Property owner's name
Name	Property owner's name
	8. 12200 GLynowing & DR
Organization, if applicable	(Number) (Zip)
Urganiza Clony II approved	Property street address and zip code
Edynpor Md. 21071	9. 15.8 ACRES
Mailing address	Acreage or lot size of total property
P.O. 187	Sweamer Gryn Suring & Timber Grove Rd.
City, state, and zip code	Distance of property to nearest street/intersection
	Name street(s) 000935
. (н) <u>584-2624</u> (в) <u>833-7800</u>	11. 1 8 - 0 0 - 0 0 6 4 9 0
Home and business phone numbers	
BEN BRONSTEIN	12. MAP 49 BLoth 13 13.1381 0 289 Property-tax map number Parcel number
Attorney or other representative, if any	
GEORGE HARRIS	14. D/ 15. NW 15-I
Representative's firm name (if applicable)	1,000-scale zoning map no. 200-scale zoning map no.
2	ANG FOR OFFICE USE ONLY
29 WEST SUSGUEHANNA	16. Water-service zone 21555 Subsewershed zone 2 Sewer-service area 555
NUCLI 600	Transportation zone 3 20 Police Precinct 03
Towson md. 2/204	Growth Management School district
Representative's city, state, and zip code	Critical Area NA Middle
296-0200 ext	designation High 17
Representative's business phone number	
Zoning Re	quest Information
- m/ Im 158	18. Concrete Factory
Existing zoning, in acres per zone	Existing use of property
00-11 158	20. APART MENTS/CONDOS
Proposed zoning, in acres per zone	Proposed use of property
1 MLTM Since fefor	1978
Zoning history of property	· ·
<i>A</i>	
Community organizations in the area of this zoning	request
THE INFORMATION SHOWN ON THIS FORM IS ACCURATE	į .
THE INFORMATION SHOWS ON THIS FORM IS ACCOUNTE	
	(Signature)
OUNIER ACKNOWLEDGEMENT: (Y) N	
	view and sign below.
-	for any required field inspections of my property in regard
to the exhibit zoning reguest.	
I hereby acknowledge that if any rezoning occur	rs, a change in the property tax assessment and/or transfer

Further, I understand that if this zoning request is granted, it does not guarantee the issuance of plan approval or building permit. At the time of development processing, all County, State and Federal

(Signature)

taxes may result for which the property owner would be responsible.

requirements in effect at that time must be satisfied.

LARRY & Knight

Owner Name (Type or Print)

JUSTIFICATION LETTER LOT ST. GEORGES INDUSTRIAL PARK WEST SIDE GLYNDING - BRIVE I AM THE GLOVER of THE REFERENCED . LOT WHICH CONSISTS of 15.42 acres Zoned.

ML/IM E. 38 Acres. 2 mad 85. 35 The sit is printly occopied by my Concreto factory. DR 16 158 ac + and believe that from the following Reason.

1. Neiborhood.

2 traffin 3. access + dust control the planners stoff and to proved additional information upon regulate

Simolo Si

(CIB

LAW OFFICES

EVANS, GEORGE AND BRONSTEIN

SUSQUEHANNA BUILDING, SUITE 205 29 WEST SUSQUEHANNA AVENUE TOWSON, MARYLAND 21204 (301) 296-0200 FAX: (301) 296-3719

L ROBERT EVANS HARRIS JAMES GEORGE BENJAMIN BRONSTEIN

MICHAEL J. CHOMEL DOUGLAS A. STUBBS

February 14, 1992

FEB 18 22

Mr. P. David Fields, Director Office of Planning and Zoning for Baltimore County County Courts Building 401 Bosley Avenue Towson, Maryland 21204

PLANNING & ZONING

RE: <u>Issue No.: 3-175</u>

SW corner Glyn Owings Drive

and Timber Grove Road

15.80 acres

Dear Mr. Fields:

Kindly strike my appearance on behalf of the Petitioner, Larry E. Knight in the above entitled matter.

Very truly yours,

EVANS GEORGE AND BRONSTEIN

Benjamin Bronstein

BB/mlh

cc: Mr. Larry Knight

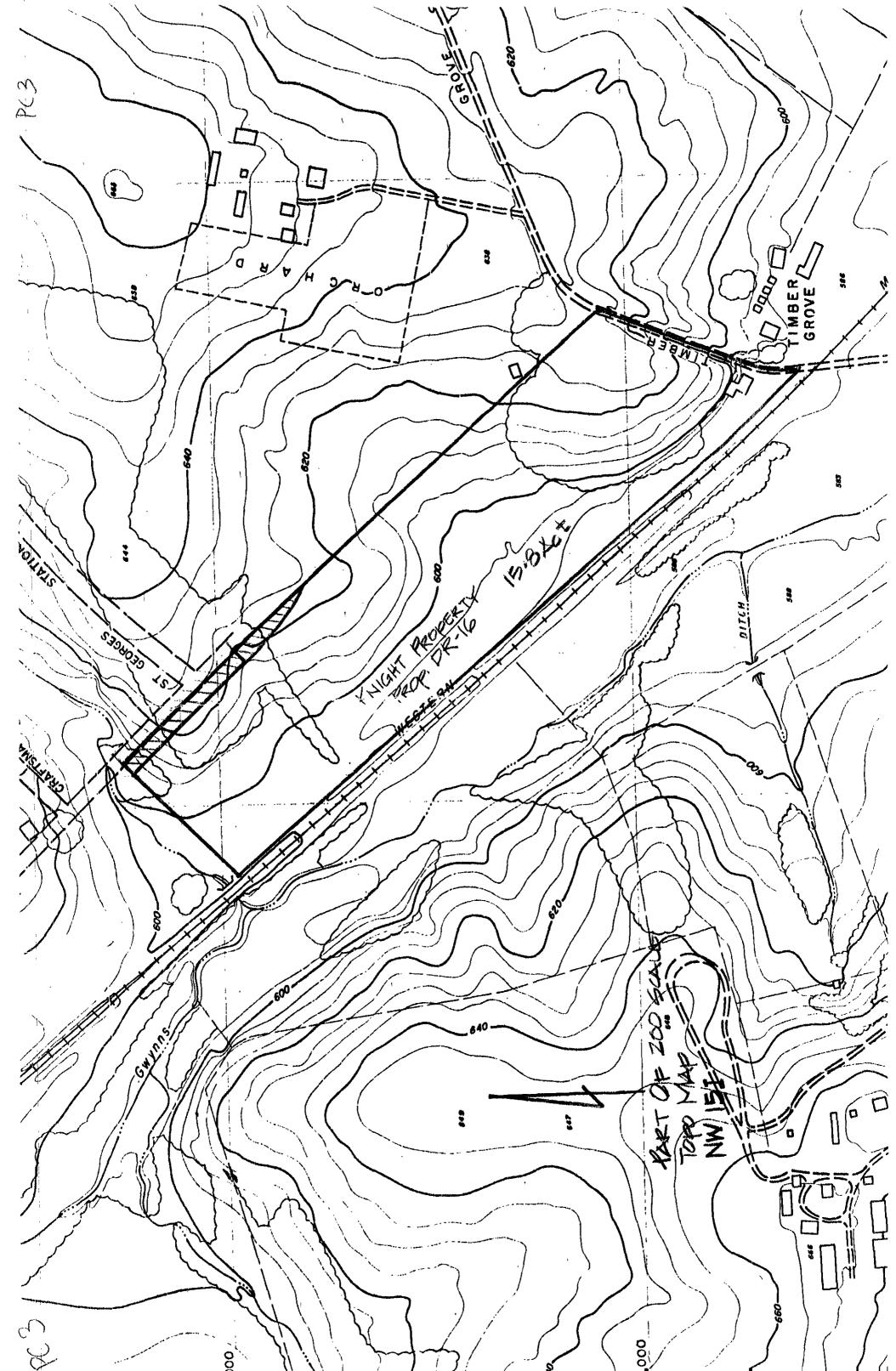
T0: ·	Office of Planning & Zoning	DATE: <u>April 9, 1992</u>
RE:	Comments on CZMP Issue No. 3-175	
FROM:	Department of Environmental Protection and	Resource Management
	The Department has no comments on the propo	osed zoning.
	The proposed zoning is consistent with the	goals of the Department.
<u>X</u>	The proposed zoning raises concerns in cert is generally consistent with the goals of t	
	The proposed zoning raises substantial condwith the goals of the Department (see comme	
NOTICE:	Please be advised that any clearing, gradinat the referenced site must comply with all requirements in effect at the time of such building or development.	environmental regulatory

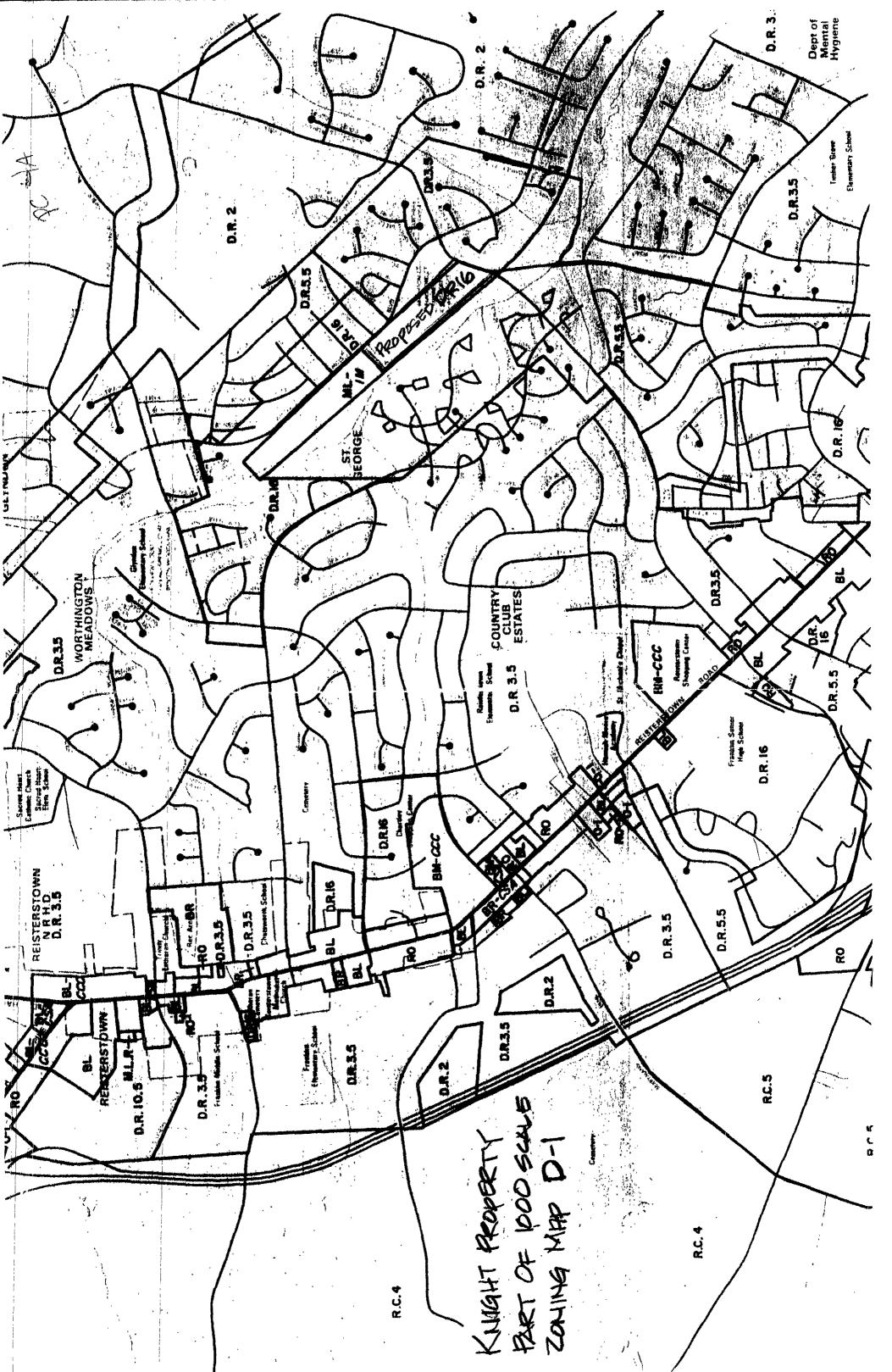
COMMENTS:

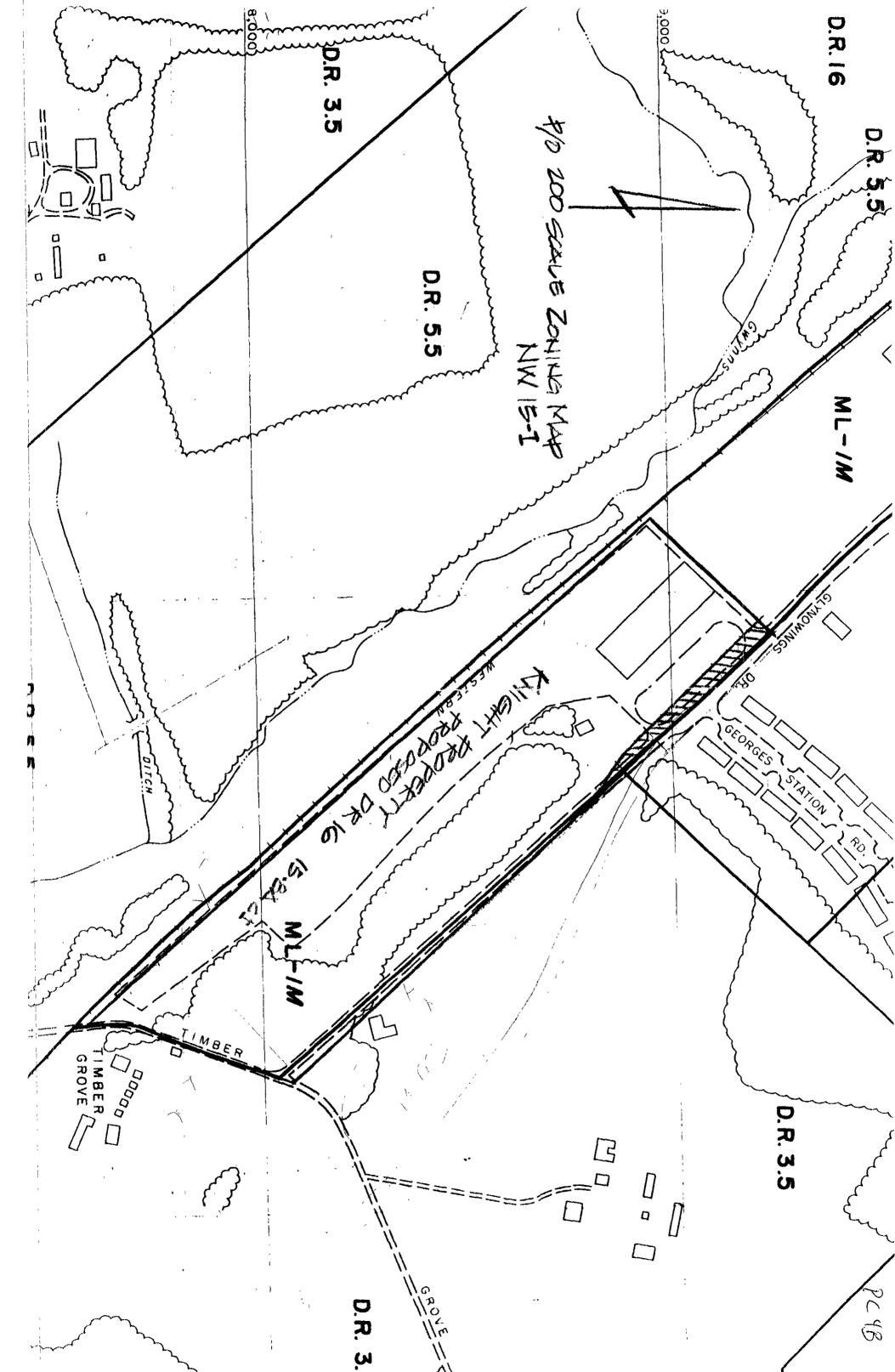
1) The steep/erodible slopes, nontidal wetlands, and stream on site and/or adjacent to this site must be protected. This area drains to the Gwynns Falls.

J James Dieter Director Department of Environmental

Protection and Resource Management







Baltimore County, Maryland Logeof無Issues

Preliminary Staff Recommendations

BALTIMORE COUNTY 1992 COMPRESENSIVE ZONING MAP ISSUES

;

3-175		3-174		3-173		3-172		3-171		3-170	NO	
Larry E Knight By Ben Bronstein		37-39 Main Street, Inc By Robert W Cannon	DA TOMYRING O VIOLENCE A CO.	Pleasant Hills Partnership		Gr. Lodge Masons of MD, USA By Stuart Kaplow, Esq	By Charles Heyman, Esq			McDonogh School, Inc By Venable, Baetjer & Roward	CWNER, PETITIONER	
SW corner Glynowings Dr & Timber Grove Rd (12200 Glynowings Dr)	Street)	340' SE of intersection Rt 140 Westminster Pike & E Side Main St (37 Main	Gentlebrook Rd & 11112,11116 Reisterstown Rd)	Intersection of Gentlebrook & Reisterstown Rds (20,30		2800' along International Circle & the intersection With International Dr	Rd)	E Side Relaterstown Rd 320' S of Greenspring		S Side McDonogh Rd N & S of Red Run Blvd	LOCATION	
15.80		0.46		2.70		78.13		1.40		9.30	TOTAL ACRES	
15.80 MI-IM		DR 3.5 0.46		0-1 2.70	0.45 RC 4 38.38	DR 1 34.45 DR 2 4.85		RO 1.40	2.22	RAE 1 1.83 DR 1 5.25	EXISTING ZONING AND ACRES	
DR 16	0.46	BT-ccc	2.70	Ħ	15.24 MLR 62.89	RC 4	1.40	TB	7.08 DR 1 2.22	Ö.	REQUESTED ZONING AND ACRES	
OR 3.5 OR MLR(SE) 15.80		BL-CCC 0.46		0-1 2.70		OT 39.75 RC 4 38.38		0-1		OT 7.08 DR 1 2.22	ZONING STAFF RECOMMEN- DATIONS DATIONS	
SE zone to be recommended if adopted by council.											COMMENTS	

THE LOOMMENDE BALT NOTE OUNTY COMPLETSWE ZONINGYAP

Log of Issues, June 11, 1992

A Report by the Baltimore County Planning Board by the Baltimore County Council for Public Hearings

G7

BALTIMORE COUNTY
1992 COMPREHENSIVE ZONING MAP ISSUES

*		3-175		3-174		3-173		3-172		3-171		3-170	NO
		Larry B Knight By Ben Bronstein		37-39 Main Street, Inc By Robert W Cannon		Pleasent Hills Partnership By Lawrence J Thanner, Jr		Gr. Lodge Masons of MD, USA By Stuart Kaplow, Esq		Greenspring Valley Ofc Ctr Ltd		McDonogh School, Inc By Venable, Bastjer & Boward	OWNER, PETITIONER
	etymostyte	SW corner Glynowings Dr & rimber Grove Rd (1220)		340' SR of intersection Rt 140 Westminster Pike & R Side Main St (37 Main Street)	Rd)	Intersection of Gentlebrook & Reisterstown Rds (20,30 Gentlebrook Rd & 11112,11116 Reisterstown		2800' along International Circle & the intersection with international Dr	Rd)	E Side Reisterstown Rd 320' S of Greenspring Valley (9505 Reisterstown		S Side NcDonogh Rd N & S of Red Run Blvd	LOCATION
ı		15.80		0.46		2.70		78.13		1.40		9.30	TOTAL
		MI-IM 15.80		DR 3.5 0.46		0-1 2.70	RC 4 38.38	DR 1 34.45 DR 2 4.85		RC 1.40	2.22	RAE 1 1.83 DR 1 5.25	EXISTING ZONING AND ACRES
	15.80	DR 16	0.46	BT~ccc	2.70	7E	15.24 MLR 62.89	RC 4	1.40	JE.	7.08 DR 1 2.22	Q ₂	REQUESTED ZONING AND ACRES
V		SE 15.80		BL-CCC 0.46		0-1 2.70		OT 39.75 RC 4 38.38		0-1		OT 7.08 DR 1 2.22	PLANNING BOARD RECOMMEN- DATIONS
													COMMENTS
ST. T. C.													

People's Gunsel Ex. 7

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND. LEGISLATIVE SESSION 1991, LEGISLATIVE DAY NO. 14 BILL NO. <u>124-91</u>

MR. C. A. DUTCH RUPPERSBERGER, III, COUNCILMAN

BY THE COUNTY COUNCIL, JULY 1, 1991

A BILL ENTITLED

AN ACT concerning

Nonconforming Uses

FOR the purpose of redefining a nonconforming use so that a nonconforming structure which is damaged or destroyed by fire may be restored within a two year period but may not be enlarged; limiting the number of dwelling units or density of restored residentially used structures to the number of units which existed before the casualty; and consolidating provisions of the Zoning Regulations relating to damaged structures which are nonconforming.

BY repealing and re-enacting, with amendments,

Section 104

Baltimore County Zoning Regulations, as amended BY ropealing

Section 305

Baltimore County Zoning Regulations, as amended WHEREAS, THE Baltimore County Council has received a final report, dated July 19, 1990, from the Planning Board concerning the subject legislation and held a public hearing thereon on November 13, 1990; now, therefore

- 1. SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE 2. COUNTY, MARYLAND, that Section 104 of the Baltimore County Zoning 3. Regulations, as amended, be and it is hereby repealed and re-enacted. 4.
- Section 104 -- Nonconforming Uses

with amendments, to read as follows:

continue except as otherwise specifically provided in these
Regulations; provided that upon any change from such nonconforming use
to any other use whatsoever, or any abandonment or discontinuance of
such nonconforming use for a period of one year or more, {or in case
any nonconforming business or manufacturing structure shall be damaged
by fire or other casualty to the extent of seventy-five (75) per cent
of its replacement cost at the time of such loss,} the right to
continue or resume such nonconforming use shall terminate. {No
nonconforming building or structure and no nonconforming use of a
building, structure, or parcel of land shall hereafter be extended more
than 25% of the ground floor area of buildings so used.}

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31. 32. 104.2--A STRUCTURE DAMAGED TO ANY EXTENT OR DESTROYED BY
FIRE OR OTHER CASUALTY MAY BE RESTORED WITHIN TWO YEARS AFTER SUCH
DESTRUCTION OR DAMAGE BUT MAY NOT BE ENLARGED. IN THE CASE OF
RESIDENTIALLY USED STRUCTURES WHICH ARE NONCONFORMING IN DENSITY, THE
NUMBER OF DWELLING UNITS OR DENSITY UNITS REBUILT MAY BE EQUAL TO BUT
MAY NOT EXCEED THE NUMBER OF UNITS WHICH EXISTED BEFORE THE CASUALTY.

104.3--NO NONCONFORMING BUILDING OR STRUCTURE AND NO NONCONFORMING USE OF A BUILDING, STRUCTURE, OR PARCEL OF LAND SHALL HEREAFTER BE EXTENDED MORE THAN 25% OF THE GROUND FLOOR AREA OF THE BUILDING SO USED. THIS PROVISION DOES NOT APPLY TO STRUCTURES OR USES RESTORED PURSUANT TO SECTION 104.2, EXCEPT AS AUTHORIZED BY THE ZONING COMMISSIONER PURSUANT TO SECTION 307.

[104.2] 104.4--Exception. Any contrary provision of these regulations notwithstanding, an office building that was authorized by grant of a special exception and that becomes damaged to any extent or destroyed by casualty may be fully restored in accordance with the terms of the special exception.

[104.3] 104.5--Any use which becomes or continues to be nonconforming which exists within the Chesapeake Bay Critical Area on or after the effective date of this subsection is subject to the

- provisions of [Section 104.1 and Section 104.2,] SECTIONS 104.1, 104.2
 AND 104.3 above, and to the provisions of Section 307.2, BCZR.
- 3. {Section 305--Replacement of destroyed or damaged dwellings
- In case of complete or partial casualty loss by fire, windstorm,

 flood, or otherwise of an existing dwelling that does not comply with

 height and/or area requirements of the zone in which it is located,

 such dwelling may be restored provided area and/or height deficiencies

 of the dwellings before the casualty are not increased in any respect.
- 10. SECTION 3. And be it further enacted, that this Act shall take

 11. effect forty-five days after its enactment.

R e p o r t
by the
Baltimore County Planning Board
to the
Baltimore County Board of Appeals

ZONING RECLASSIFICATION PETITIONS

Cycle IV 1994/1995

January 31, 1995





ZONING RECLASSIFICATION PETITIONS

Cycle IV 1994/1995

R e p o r t
by the
Baltimore County Planning Board
to the
Baltimore County Board of Appeals

January 31, 1995

Baltimore County
Office of Planning and Zoning
Towson, Maryland

Baltimore County Government Planning Board



401 Bosley Avenue Towson, MD 21204

(410) 887-3211 Fax (410) 887-5862

January 20, 1995

Mr. William T. Hackett, Chairman County Board of Appeals Courthouse Towson, Maryland 21204

Dear Mr. Hackett:

Enclosed herewith is the report containing the County Planning Board's recommendations regarding the zoning reclassification petitions in Cycle IV, 1995.

After full discussion in the Committee meeting on January 5, 1995, the Report was adopted by the Planning Board in its monthly meeting on January 19, 1995, and is hereby published and submitted in accordance with County Code Section 2-356(f).

In regard to Item 3 (Toll House, Inc.), it is understood that the Board of Appeals has scheduled a hearing on January 24, 1995 for the purpose of receiving amendments to the Petition. The Planning staff will coordinate review by County agencies for timely recommendations by the Planning Board within the 45-days period.

Sincerely,

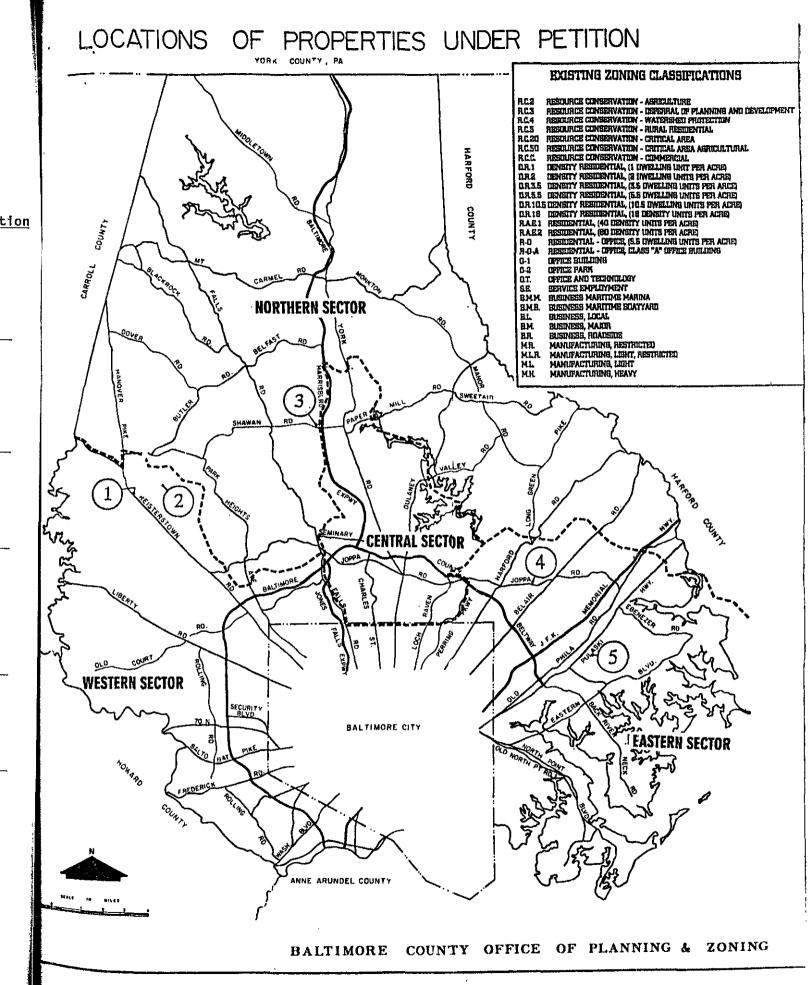
Pat Keller

Secretary to the Planning Board

PK/TD/mjm CYCLEIV/PZONE/TXTMJM

Enclosure

cc: Merreen E. Kelly, Administrative Officer Peter Max Zimmerman, People's Counsel



BALTIMORE COUNTY, MARYLAND

Recommendations of the Office of Planning and Zoning January 31, 1995

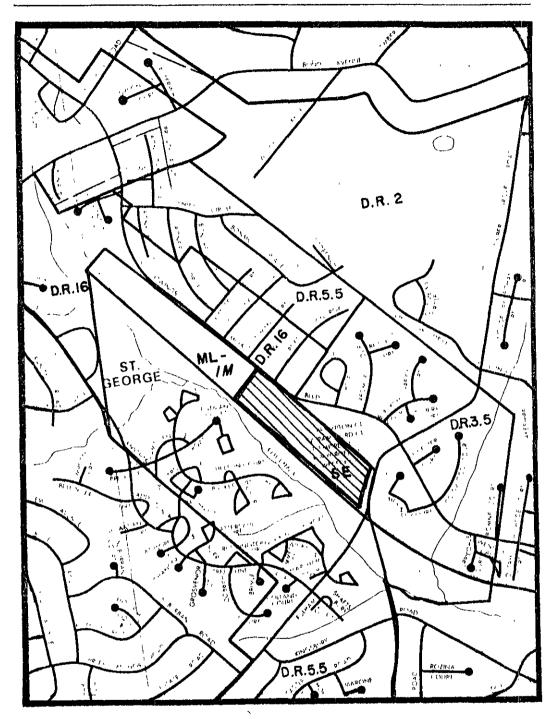
Item No. and Petitioner	Location	Acreage	Existing Zoning	Requested Zoning	OPZ/PB
Item No. 1 Craig C. Whitcraft & Mary C. Whitcraft	Northeast side of Reisterstown Road, opposite Berrymans (605 Main Street)	1.3	R.O.	B.M.	Recommendation R.O.
Item No. 2 Larry E. Knight	Southwest side of Glynowings Drive opposite St. Georges Station Road (12200 Glynowings Driv	14.64 ve)	S.E. D.R. 3.5	M.LI.M.	S.E. D.R. 3.5
Item No. 3 Toll House, Inc.	North side of Shawan Road, West of Western Run Road (301 Western Run Road)	142.4	R.C. 2	R.C. 4	R.C. 2
Item No. 4 Michael K. Walter Joseph E. Magee & Brian L. Jaques	North side of East Joppa Road, 73 feet east of the centerline of Springtowne Circle (3814 East Joppa Road)	. 34	D.R. 5.5	R.O.A.	R.O.A.
Item No. 5 Irvin & Dorothy Hawkins	North side of Bird River Road, 127 feet north of Lannerty Road	6.94	D.R. 5.5 M.LI.M.	D.R. 16	D.R. 5.5 M.LI.M.

SOURCE MATERIAL

Recommendations for the five (5) petitions filed are based on the following:

- 1. Information compiled during the processing of the Comprehensive Zoning Maps adopted by the County Council on October 15, 1992.
- 2. Capital Budget and 5-Year Capital Program.
- 3. Zoning Plans Advisory Committee comments.
- 4. Discussions with other governmental agencies.
- 5. Field inspections of subject sites.
- 6. Baltimore County Master Plan.

RE



ITEM NUMBER 2 Location of Property Under Petition

Scale: 1"= 1000'

CYCLE IV. ITEM 2

CASE NO. R-95-137

PETITIONER:

Larry E. Knight

REQUESTED ACTION:

Reclassification to M.L.-I.M. (Manufacturing Light, Industrial Major)

EXISTING ZONING:

S.E. and D.R. 3.5 (Service Employment, Density Residential)

LOCATION:

Southwest side of Glynowings Drive, opposite St. Georges Station Road

AREA OF SITE:

14.60 acres

ZONING OF ADJACENT PROPERTY/USE:

Northeast: D.R. 16 - Single-family, attached residential

Northwest: M.L.-I.M. - Mixed residential use Southeast: D.R. 3.5 - Mixed residential use Southwest: D.R. 5.5 - Mixed residential use

SITE DESCRIPTION:

This 14.60 acre parcel is currently improved with a concrete manufacturing plant.

PROPERTIES IN THE VICINITY:

The subject site is bounded to the west by the tracks of the CSX Railroad, and to the east by Owings Mills Boulevard. An extensive wetland area associated with the Gwynns Falls is located adjacent to the railroad tracks. The property is, for the most part, surrounded by mixed residential development.

The Hunter's Glen South, Saint Georges Station, Shepard's Glen and Suburbia Addition subdivisions are all located within close proximity to or abut the applicant's site. A narrow strip of M.L.-I.M. zoned and improved land is located immediately northwest of the property.

. WATER AND SEWERAGE:

The area is served by public water and sewer, and is designated as W-1, S-1 (existing service area) according to the <u>Master</u> Water and Sewer Plan.

TRAFFIC AND ROADS:

Direct access to Owings Mills Boulevard, which is classified as an arterial, is available to the property.

ZONING HISTORY:

The subject site was zoned M.L.-I.M. in 1976. Zoning changes were sought by the Worthington Manor and Sagamore Community associations in conjunction with the 1980 C.Z.M.P. As a result of that action, property adjacent to the subject site was rezoned from M.R.-I.M. and M.L.-I.M. to D.R. 3.5 and D.R. 5.5 (see Issue Nos. 3-136 and 3-194). As part of the 1984 Comprehensive Zoning Map Process, the current property owner, Mr. Larry Knight, requested the property's zoning be changed from M.L.-I.M. to D.R. 16. While Planning staff and the Planning Board recommended D.R. 3.5, the County Council voted to retain the M.L.-I.M. zoning (see Issue No. 3-65). No issues were filed during the 1988 Comprehensive Zoning Map Process. 1992, the applicant again sought rezoning to D.R. 16. Consistent with the recommendation of staff and the Planning Board, the S.E. classification was applied to the property (see Issue No. 3-175).

MASTER PLAN/COMMUNITY PLANS:

The Growth Management Area Map indicates the applicant's site is located within a Community Conservation Area. The Baltimore County Growth Management Program Guidelines for the 1992 Comprehensive Zoning Map Process, which were adopted by the Baltimore County Planning Board and approved by the Baltimore County Council on January 23, 1992, state the following:

Development of high intensity business, office, or manufacturing uses is inconsistent with the intention of designating an area as Community Conservation, and may necessitate zoning changes on vacant land to reduce the intensity of new development.

In Community Conservation Areas, new Manufacturing, Business Roadside (B.R.), or Business Major (B.M.) zoning is generally inappropriate and should not abut existing residential uses.

PROPOSED VS. EXISTING ZONING:

Regulations governing the M.L. zone are found in Section 253 of the Baltimore County Zoning Regulations. The M.L. zone permits a number of light manufacturing uses by right. The zone also allows auxiliary retail or service uses or semi-industrial uses, provided the use is located in a planned district, however, such uses are not permitted in cases where direct access to an arterial street exists. The M.L. zone also permits several uses by Special Exception. The I.M. district regulations are found in Section 259.2H.

Regulations for the S-E zone may be found in Section 208 of the Baltimore County Zoning Regulations. The Service-Employment (S-E) zone was established to permit and encourage the development of general offices, related business uses and small, light industrial uses. The regulations provide for flexibility in the combination of uses permitted in the S-E zone. However, development of buildings and type of uses are restricted to insure compatibility with surrounding residential areas.

OFFICE OF PLANNING AND ZONING SUMMARY AND RECOMMENDATIONS:

Based upon the information provided and analysis conducted, staff recommends that the applicant's request be denied for the following reasons:

- The proposed zoning is inconsistent with the Community Conservation Area designation of the site.
- The retention of the S.E. zone would ensure that future development of the site would be compatible with surrounding residential areas.

Fand ARCS

BALTIMORE COUNTY, MARYLAND

DEPARTMENT OF ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT

INTER-OFFICE CORRESPONDENCE

November 25, 1994

T0:

Mr. Arnold Jablon, Director Zoning Administration and Development Management

FROM:

J. Lawrence Pilson

Development Coordinator, DEPRM LARRY KNIGH

SUBJECT:

Zoning Item #R-95-137

12200 Glynowings Drive

Zoning Advisory Committee Meeting of October 24, 1994

The Department of Environmental Protection and Resource Management offers the following comments on the above-referenced zoning item.

Development of the property must comply with the Regulations for the Protection of Water Quality, Streams, Wetlands and Floodplains.

There is the potential for wetlands to exist on this site.

Development of the property must comply with Regulations for Forest Conservation.

There has been a long history of acrimmonious contention between Larry Knight Inc., and its residential neighbors. Although there have been no recent complaints since Larry Knight Inc. was assessed civil penalties as the result of an Administrative Law Hearing in late 1992, changing the zoning status from SE and DR3.5 to ML/IM may be inviting a recurrence of environmental violations, particularly for airborne particulate and noise. This is almost always the case when industrial zoning is immediately adjacent to residential zoning. It should also be pointed out that the County's ability to respond to, and enforce, such violations has been reduced. The Department would need to see a documented site plan showing the proposed use/development of the property in order to make a thorough evaluation and determination of the potential effects upon the neighboring residential areas.

If there are any questions, applicant may contact Dave Filbert at 887-3775.

JLP:VK:SR:sp

GLYNOWIN/DEPRM/TXTSBP



Maryland Department of Transportation State Highway Administration

Hai Kassoff Administrator

Ms. Julie Winiarski Zoning Administration and Development Management County Office Building Room 109 111 W. Chesapeake Avenue Towson, Maryland 21204

Baltimore County Re:

Item No.: #2, CYCLE IV. CASENO: R-95-137

Dear Ms. Winiarski:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

Very truly yours, Bob Small

✓ David Ramsey, Acting Chief Engineering Access Permits

Division

BS/

BALTIMORE COUNTY, MARYLAND INTEROFFICE CORRESPONDENCE

TO: Arnold Jablon, Director DATE: October 31, 1994 Zoning Administration and Development Management

FROM Robert W. Bowling, Chief Developers Engineering Section

RE: Zoning Advisory Committee Meeting for Zoning Reclassification Cycle IV October 1994 -April 1995

The Developers Engineering Section has reviewed the subject zoning items and we have no comments for Item 5.

For Item 1 see Developers Engineering Section file titled "Chartley Buildings - #605 Reisterstown Road" for approved County Review Group Plan and comments dated 3-14-91 for this site.

For Item 2) show a 10-foot revertible slope easement along the future 60-foot right-of-way for Timber Grove Road and along the Glynowings Drive 70-foot right-of-way. For additional information see the Developers Engineering Section's file titled "St. Georges Industrial Park Addition."

For Item 3, this site is subject to the Baltimore County Development Regulations for a residential development.

For Item 4, per the recorded Spring Hill (53/96) record plat there is an existing County drainage and utility easement, 10 feet wide, running the length of the west property line of 3814 East Joppa Road. Also, there is no existing easement for ingress or egress shown on the recorded plat of the Spring Hill subdivision for this property.

RWB:s

Baltimore County Government Fire Department



700 East Joppa Road Suite 901 Towson, MD 21286-5500

(410) 887-4500

DATE: 10/26/94

Arnold Jablon
Director
Zoning Administration and
Development Management
Baltimore County Office Building
Towson, MD 21204
MAIL STOP-1105

RE: Property Owner: SEE SELOW

LOCATION: RECALLIFICATION AND REDISTRICTING PETITIONS WORK COPY 10/14/94. CUCLE IV OCT. 1994- APR. 1995

Item Mour SEE DELDU

Zoning Agenda:

Gontlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

G. The Fire Marchal's Office has no communts at this time. IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 1. (2.) 3. 4 AND 5.

OCT 28 1994

ZADM

AUVIERS, LT. FORERT P. CALERVALD Fire Marshar Defice, PHONE 887-4881, NS-1108F

cc - Cilm



Printed on Recycled Paper

COUNTY COUNCIL OF BALTIMORE COUNTY, MARYLAND LEGISLATIVE SESSION 1992, LEGISLATIVE DAY NO. 7

Kina Jak R. Sa.

BILL NO. 46-92

MR. C. A. DUTCH RUPPERSBERGER, III, COUNCILMAN

BY THE COUNTY COUNCIL, APRIL 6, 1992

A BILL ENTITLED

AN ACT concerning

Service Employment Zone

FOR the purpose of creating the Service Employment (S-E) Zone, , defining terms, specifying the purpose of the zone, the uses

> permitted therein by right or by Special Exception, accessory uses, bulk regulations, and performance standards, amending the development regulations regarding compatibility of buildings in an S-E zone, and generally relating to the Service Employment

Zone in Baltimore County.

BY adding

Section 101 - Definitions, the definition of

"Compartmentalized Warehouse Establishment"

Baltimore County Zoning Regulations, as amended

BY adding

Section 208

Baltimore County Zoning Regulations, as amended

BY repealing and re-enacting; with amendments

Section 26-282

Title 26 - Planning, Zoning and Subdivision Control

Baltimore County Gode, 1988

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW. [Brackets] indicate matter stricken from existing law. Strike-out indicates matter stricken from bill. Underlining indicates amendments to bill.

BY adding

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Section 26-282(d)

Title 26 - Planning, Zoning and Subdivision Control
Baltimore County Code, 1988

WHEREAS, the Baltimore County Council has received a final report, dated September 19, 1991, from the Planning Board concerning the subject legislation and has held a public hearing thereon on November 26, 1991, now, therefore

1.	SECTION 1. BE IT ENACTED BY THE COUNTY COUNCIL OF BALTIMORE
2.	COUNTY, MARYLAND, that the definition of "Compartmentalized Warehouse
3.	Establishment" be and it is hereby added, alphabetically, to Section
4.	101 - Definitions, of the Baltimore County Zoning Regulations, as
5.	amended, to read as follows:
6.	Section 101 - Definitions.
7.	COMPARTMENTALIZED WAREHOUSE ESTABLISHMENT - A BUILDING
8.	CONSISTING OF INDIVIDUAL, SMALL, SELF-CONTAINED UNITS THAT ARE LEASED
9.	OR OWNED FOR SELF-SERVICE STORAGE OF BUSINESS OR HOUSEHOLD GOODS.
	ı

SECTION 2. AND BE 1T FURTHER ENACTED, that Section 208 be and it is hereby added to the Baltimore County Zoning Regulations, as amended, to read as follows:

SECTION 208--SERVICE EMPLOYMENT ZONE (S-E)

208.1 DECLARATION OF FINDINGS.

A. THERE IS A GROWING DEMAND FOR BUILDINGS WHICH CAN BE EASILY ADAPTED TO ACCOMMODATE OFFICE, LIGHT MANUFACTURING, STORAGE OR SERVICE USES, DEPENDING ON THE MARKET DEMAND AND INDIVIDUAL TENANT NEEDS.

B. THESE BUILDINGS ARE CHARACTERIZED BY THEIR LOW PROFILE AND POTENTIAL COMPATIBILITY WITH RESIDENTIAL USES.

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- C. THE BALTIMORE COUNTY MASTER PLAN 1989-2000 RECOGNIZES THE NEED TO LOCATE EMPLOYMENT CENTERS NEAR EXISTING COMMUNITIES AND THE NEED TO EXPAND THE EXISTING SUPPLY OF INDUSTRIAL LAND THROUGHOUT THE COUNTY AND TO PROVIDE REGULATIONS WHICH WILL INCREASE THE COMPATIBILITY BETWEEN RESIDENTIAL AND NONRESIDENTIAL USES.
- D. PROVIDING ADDITIONAL OPPORTUNITIES FOR SUCH DEVELOPMENT IN
 BALTIMORE COUNTY WILL HELP PREVENT THE MIGRATION OF EMPLOYMENT CENTERS
 TO NEIGHBORING COUNTIES AND CONTRIBUTE TO THE COUNTY'S ASSESSABLE TAX
 BASE AND PRESERVE A SIGNIFICANT NUMBER OF JOBS FOR ITS CITIZENS.
- , E. THE BALTIMORE COUNTY ZONING REGULATIONS CURRENTLY DO NOT INCLUDE A ZONE SUITABLE FOR AREAS WHICH WILL BE DESIGNED TO ACCOMMODATE A MIX OF BUSINESS SERVICE, OFFICES AND CERTAIN LIGHT INDUSTRIAL USES WHICH WILL BE HIGHLY COMPATIBLE WITH RESIDENTIAL USES.
 - 208.2 STATEMENT OF LEGISLATIVE POLICY.
- A. PURSUANT TO THE FINDINGS DECLARED ABOVE, THE SERVICE
 EMPLOYMENT ZONE IS ESTABLISHED TO PERMIT AND ENCOURAGE THE DEVELOPMENT
 OF GENERAL OFFICES, RELATED BUSINESS SERVICE USES AND SMALL, LOW-IMPACT,
 LIGHT INDUSTRIAL USES. THESE REGULATIONS SHALL PROVIDE FOR FLEXIBILITY
 IN THE COMBINATION OF USES PERMITTED IN THE SERVICE EMPLOYMENT ZONE, BUT
 SHALL RESTRICT THE DEVELOPMENT OF BUILDINGS AND THE TYPE OF USES IN
 KEEPING WITH THEIR PROXIMITY TO RESIDENTIAL AREAS.
- B. BECAUSE IT IS THE INTENT OF THESE REGULATIONS THAT

 DEVELOPMENT IN THE SERVICE EMPLOYMENT ZONE BE COMPATIBLE WITH

 RESIDENTIAL USES AND THAT THERE BE ADDITIONAL LAND AVAILABLE FOR SUCH

 COMPATIBLE DEVELOPMENT, THIS ZONE SHALL ONLY BE APPLIED TO TRACTS OF

 LAND WHICH MEET THE FOLLOWING CONDITIONS:

1.	1. THE SITE SHALL HAVE AT LEAST ONE DIRECT ENTRANCE TO: Λ) ·
2.	A ROAD WHICH HAS A CLASSIFICATION OF AT LEAST AN ARTERIAL ON THE MOST
3.	RECENTLY APPROVED REVISION OF THE FEDERAL HIGHWAY FUNCTIONAL
4.	CLASSIFICATION MAP FOR THE BALTIMORE URBAN AREA; OR B) A PUBLIC
5.	INDUSTRIAL SERVICE ROAD AS DEFINED IN SECTION 101 OF THESE REGULATIONS.
6.	2. THE SITE SHALL CONTAIN ENOUGH BUILDABLE AREA SO THAT
7.	TRUCK PARKING, DUMPSTER AND LOADING AREAS CAN BE EFFECTIVELY SCREENED
8.	TO PROTECT NEIGHBORING PROPERTIES FROM NOISE, ODORS, AND THE APPEARANCE
9.	OF TRUCKS.
10.	C. IT IS INTENDED THAT NO USE IN THE SERVICE EMPLOYMENT ZONE
11.	CREATE A NUISANCE TO OTHER PROPERTY OUTSIDE THE ZONE IN THE FORM OF
12.	VIBRATION; SOUND; ELECTROMECHANICAL OR ELECTRO-MAGNETIC DISTURBANCES;
13.	RADIATION; AIR OR WATER POLLUTION; DUST OR EMISSION OF ODOROUS, TOXIC
14.	OR NONTOXIC MATTER (INCLUDING STEAM), NOR CREATE A POTENTIAL FOR
15.	EXPLOSION OR OTHER HAZARD.
16.	208.3 PERMITTED USES.
17.	A. PRINCIPAL USES. THE FOLLOWING PRINCIPAL USES ARE
18.	PERMITTED AS A MATTER OF RIGHT.
19.	1. BUSINESS OR TRADE SCHOOLS.
20.	2. LABORATORIES AND RESEARCH INSTITUTES (SEE SECTION 101).
21.	3. BUSINESS AND PROFESSIONAL OFFICES, EXCLUDING MEDICAL
22.	OFFICES OR CLINICS.
23.	4. PUBLIC UTILITY USES PERMITTED AND AS LIMITED IN THE
24.	D.R. ZONES.
25.	5. USES ENGAGED IN SERVICE INDUSTRIES OR THOSE INDUSTRIES
26.	PROVIDING SERVICE TO, AS OPPOSED TO THE MANUFACTURING OF A SPECIFIC
27.	PRODUCT SUCII AS THE REPAIR AND MAINTENANCE OF APPLIANCES OR COMPONENT
28.	PARTS, TOOLING, PRINTERS, TESTING SHOPS, SMALL MACHINE SHOPS, AND SHOPS

1.	ENGAGED IN THE REPAIR, MAINTENANCE AND SERVICING OF SUCH ITEMS EXCEPT
2.	FOR THE USES LISTED IN 208.3.E.
3.	6. CONTRACTOR'S OFFICE; CONTRACTOR'S SHOP.
4.	7. USES ENGAGED IN BLUEPRINTING, PHOTOSTATTING,
5.	PHOTOENGRAVING, PRINTING, PUBLISHING AND BOOKBINDING.
6.	8. USES ENGAGED IN THE DISTRIBUTION, STORAGE OR
7.	WAREHOUSING OF GOODS, EXCEPT FOR THE USES LISTED IN PARAGRAPH 208.3.E.
8.	9. ESTABLISHMENT'S ENGAGED IN SECONDARY MANUFACTURING
9.	(ASSEMBLING COMPONENT PARTS OF MANUFACTURED PRODUCTS), AS LIMITED
10.	BY 208.3.E.
11	10. MOTION PICTURE AND VIDEO TAPE PRODUCTION, DISTRIBUTION
12.	AND ALLIED SERVICES.
13.	11: GROUP CHILD CARE CENTERS.
14.	12. COMMERCIAL FILM PRODUCTION (SECTION 101).
15.	13. TRANSIT FACILITIES.
16.	14. COMBINATION OF THE USES LISTED ABOVE.
17.	B. PRINCIPAL USES PERMITTED BY SPECIAL EXCEPTION.
18.	1. ESTABLISHMENTS ENGAGED IN PRIMARY MANUFACTURING (THE
19.	MECHANICAL OR CHEMICAL TRANSFORMATION OF MATERIALS OR SUBSTANCES INTO
20.	NEW PRODUCTS), AS LIMITED BY 208.3.E.
21.	2. MEDICAL OFFICES AND CLINICS, NOT EXCEEDING 25% OF THE
22.	GROSS FLOOR AREA OF THE PROJECT, PROVIDED THAT PARKING AT A RATE OF
23.	4.5 SPACES PER 1,000 SQUARE FEET OF GROSS FLOOR AREA IS PROVIDED.
24.	3. CATERING ESTABLISHMENT, SERVING OFF-SITE ONLY.
25.	4. HEALTH OR ATHLETIC CLUB.
26.	5. PUBLIC UTILITY USES OTHER THAN THOSE PERMITTED BY
27.	RIGHT, AS LIMITED IN THE D.R. ZONES.

1.	C. ACCESSORY USES. THE FOLLOWING ACCESSORY USES ARE PERMITTED
2.	AS A MATTER OF RIGHT:
3.	1. USES AND STRUCTURES WHICH ARE NORMALLY AND CUSTOMARILY
4.	INCIDENTAL TO ANY OF THE PRINCIPAL USES PERMITTED IN SUBSECTION 208.3.A
5.	AND B.
6.	2. SIGNS WHICH ARE ARCHITECTURALLY COMPATIBLE WITH THE
7.	BUILDING DESIGN. IN ADDITION TO THE SIGNS PERMITTED UNDER 413.1, THE
8.	FOLLOWING SIGNS ARE PERMITTED:
9.	(A) A WALL MOUNTED ENTERPRISE BUSINESS SIGN,
10.	NOT TO EXCEED TWO SQUARE FEET WHICH DISPLAYS THE IDENTITY AND WHICH MAY
11.	DISPLAY THE LOGO OF THE INDIVIDUAL COMMERCIAL ENTITY, ONE FOR EACH
12.	ENTRANCE.
13.	(B) A FREESTANDING SIGN, NOT TO EXCEED 30 SQUARE
14.	FEET PER SIDE OR A HEIGHT OF SIX FEET, DISPLAYING THE IDENTITY OF THE
15.	BUILDING AND WHICH MAY DISPLAY A LOGO, ONE PER FRONTAGE.
16.	(6) DIRECTORY SIGNS, DISPLAYING THE IDENTITY AND
17.	LOGATION OF THE OGGUPANTS OF THE BUILDING, NOT TO EXGEED A HEIGHT OF
18.	SIX FEET OR AN AREA OF 25 SQUARE FEET PER SIDE:
19.	(B) (C) FOR THE PURPOSES OF THIS SECTION:
20.	(1) THE HEIGHT OF A SIGN MAY NOT INCLUDE THE
21.	PORTION OF THE STRUCTURE ON WHICH THAT SIGN IS MOUNTED, PROVIDED THAT
22.	THE STRUCTURE IS ARCHITECTURALLY COMPATIBLE WITH THE BUILDING AND DOES
23.	NOT EXCEED A HEIGHT OF 13 FEET.
24.	(2) THE AREA OF A SIGN MEANS:
25.	(I) THE SUM OF THE SURFACE AREAS WITHIN A
26.	CONTINUOUS PERIMETER FORMED BY ONE RECTANGLE WHICH ENCLOSES THE OUTER
27.	LIMITS OF EVERY WRITING, ILLUSTRATION AND SYMBOL COMPRISING THE MESSAGE
28.	OF THE SIGN; AND

1.	(11) INCLUDES THE SURFACE AREA OF ALL
2.	INTEGRAL COLOR OR FRAMING OR OTHER MATERIAL BY WHICH THE SIGN IS
3.	DIFFERENTIATED FROM THE STRUCTURE ON WHICH IT IS ERECTED; AND
4.	(III) DOES NOT INCLUDE ANY STRUCTURAL,
5.	SUPPORTING, OR DECORATIVE FEATURES WHICH ARE NOT INTENDED TO COMPRISE
6.	PART OF THE MESSAGE OF THE SIGN.
7.	(3) EXCAVATIONS, UNCONTROLLED.
8.	(4) PARKING AND LOADING AREAS SHALL BE PROVIDED
9.	IN ACCORDANCE WITH THE REQUIREMENTS OF SECTION 409, EXCEPT THAT PARKING
10.	SHALL BE PROVIDED AT THE RATE OF FOUR (4) SPACES FOR EVERY 1,000 SQUARE
11.	FEET OF GROSS FLOOR AREA AND PARKING AND LOADING SPACES SHALL BE
12.	CONSIDERED INTERCHANGEABLE.
1.3.	(5) CABLES, CONDUITS, MAINS FOR WATER, GAS OR
14.	SEWER, AND STORM-DRAIN SYSTEMS, ALL OF WHICH SHALL BE UNDERGROUND.
15.	(6) INCIDENTAL SALES, WHOLESALE OR RETAIL
6.	PROVIDED THE SALES AREA DOES NOT EXCEED 20% OF THE GROSS FLOOR AREA
17.	OF THE PRINCIPAL USE.
8.	D. THE FOLLOWING AUXILIARY COMMERCIAL AND RETAIL USES INTENDED
.9.	FOR THE PRIMARY USE OF EMPLOYEES OR CLIENTS VISITING THE SITE ARE
20.	PERMITTED WITHIN BUILDINGS OF PRINCIPAL USES, PROVIDED THAT (1) NO MORE
21.	THAN TWENTY PERCENT (20%) OF THE TOTAL ADJUSTED GROSS FLOOR AREA OF THE
22.	PROJECT IS OCCUPIED BY SUCH AUXILIARY USES, (2) NO SINGLE USE OCCUPIES
23.	MORE THAN 2,500 SQUARE FEET OF ADJUSTED GROSS FLOOR AREA AND (3) THE
24.	USES OPERATE ONLY BETWEEN 6:00 A.M. AND 7:00 P.M. THE ZONING
15.	COMMISSIONER MAY APPROVE SIMILAR USES WITH SIMILAR HOURS UPON FINDING
6.	THAT THE PROPOSED USE IS NEEDED TO PRIMARILY SERVE EMPLOYEES AND CLIENTS
7.	AT THE SITE AND WILL NOT INCREASE TRAFFIC IN THE AREA:

1. DRUG STORES.

1.	2. NEWSSTANDS.
2.	3. PERSONAL SERVICE ESTABLISHMENTS SUCH AS BEAUTY AND
3.	BARBER SHOPS; SHOE CLEANING OR REPAIR SHOPS, GARMENT
4.	CLEANING SERVICES OR SIMILAR ENTERPRISES.
5.	4. PRINTING AND REPRODUCTION SERVICE ESTABLISHMENTS.
6.	5. STATIONERY OR OFFICE SUPPLY SHOPS.
7.	6. BANKS, AS LIMITED IN THE O.T. ZONE.
8.	7. RESTAURANTS, WITH NO DRIVE-THROUGH FACILITIES.
9.	E. THE FOLLOWING SERVICE AND REPAIR, DISTRIBUTION AND STORAGE
10.	AND MANUFACTURING USES ARE NOT PERMITTED IN THE SERVICE EMPLOYMENT ZONE.
11.	THE ZONING COMMISSIONER MAY EXCLUDE ANY OTHER SIMILAR USE WHICH MIGHT BE
12.	INJURIOUS OR NOXIOUS BY REASON OF ODOR, FUMES, DUST, SMOKE, VIBRATION,
13.	NOISE OR OTHER CAUSE.
14.	1. SERVICE AND REPAIR USES
15.	AUTOMOTIVE SERVICE STATION
16.	AUTOMOBILE AND TRUCK REPAIR
17.	CONTRACTOR'S EQUIPMENT STORAGE YARD
18.	SERVICE GARAGE
19.	EQUIPMENT AND RENTAL
20.	LANDSCAPE SERVICE OPERATION
21.	2. DISTRIBUTION AND STORAGE USES
22.	BULK STORAGE OF FLAMMABLE MATERIALS
23.	COMPARTMENTALIZED WAREHOUSE ESTABLISHMENT
24.	FREIGHT FORWARDING ESTABLISHMENT
25.	JUNK YARD
26.	SPECIAL MEDICAL WASTE INCINERATOR
27.	SLUDGE FACILITIES

TRUCKING FACILITY

1.	3.	MANUFACTURING USES
2.		ABATTOIR
3.		AMMONIA, BLEACHING POWDER OR CHLORINE MANUFACTURE
4.		ASPHALT MIXING PLANT
5.		BAG CLEANING ESTABLISHMENT
6.		BLAST FURNACE
7.		BOILER WORKS
8.		CONCRETE MIXING OR BATCHING PLANT
9.		DISTILLATION OF COAL, WOOD OR BONES
10.		DISTILLATION OF TURPENTINE OR VARNISH
11.		EMERY CLOTH MANUFACTURE
12.		FERTILIZER MANUFACTURE
13.	ζ,	FIREWORKS OR EXPLOSIVES MANUFACTURE OR STORAGE
14.		FISH CANNING, CURING, GRINDING OR SMOKING
15.		FOOD AND KINDRED PRODUCTS (BOTTLED SOFT DRINKS, WATER
16.		BOTTLING, MANUFACTURED ICE PERMITTED BY SPECIAL
17.		EXCEPTION)
18.		GARBAGE INCINERATION
19.		GLUE, SIZE OR GELATIN MANUFACTURE
20.		GRINDING, COOKING, BOILING, RENDERING OR STORING OF
21.		SLAUGHTER-HOUSE REFUSE, OR ANIMAL REFUSE, OR RANCID
22.		FATS OR REFUSE OF DEAD ANIMALS
23.		IRON, STEEL OR COPPER WORKS OR FOUNDRIES
24.		LIME, CEMENT, GYPSUM OR PLASTER OF PARIS MANUFACTURE
25.		MANUFACTURE OF CONCRETE OR MORTAR
26.		PETROLEUM, ATCOHOL OR ASPHALT REFINING, MIXING OR
27.		MANUFACTURE OR STORAGE
28.		PYROXYLIN OR CELLULOID MANUFACTURE

1.	PULVERIZING OF CHARCOAL OR COAL
2.	SMELTING OF IRON
3.	SOAP MANUFACTURE
4.	STOCKYARDS
5.	SULFURIC, NITRIC OR HYDROCHLORIC ACID MANUFACTURE
6.	TANNING, CURING OR STORING OF RAW HIDES OR SKINS
7.	TETRA-ETHYL LEAD PRECIPITATE OR LIQUID MANUFACTURE
8.	VINEGAR MANUFACTURE
9.	WOOL PULLING AND SCOURING
10.	YEAST PLANTS
11.	208.4 BULK REGULATIONS.
12.	A. MINIMUM NET LOT AREA; TWO (2) ACRES; EXCEPT THAT PUBLIC
13.	UTILITY USES SHALL BE EXEMPT FROM MINIMUM NET LOT AREA REQUIREMENTS.
14	THE TERM NET LOT AREAS AS USED HEREIN DOES NOT INCLUDE THE PORTION OF
15.	ANY LOT WHICH IS WITHIN A STREET RIGHT OF WAY.
16.	B. MINIMUM AREA DEVOTED TO OPEN SPACE: TWENTY (20) PERCENT OF
17.	THE NET LOT AREA. THE TERM NET LOT AREA AS USED HEREIN DOES NOT INCLUDE
18.	THE PORTION OF ANY LOT WHICH IS WITHIN A STREET RIGHT OF WAY. THE OPEN
19.	SPACE CALCULATION SHALL NOT INCLUDE REQUIRED PERVIOUS SURFACE AREAS IN
20.	THE INTERIOR OF PARKING AREAS BUT SHALL INCLUDE BUFFER AREAS AT THE
21.	PERIMETER OF THE LOT. THE OPEN SPACE SHALL INCLUDE USABLE OPEN SPACE OF
22.	SUFFICIENT SIZE IN AN APPROPRIATE LOCATION FOR THE USE OF EMPLOYEES.
23.	C. MINIMUM LOT FRONTAGE WIDTH AT BUILDING LINE: 150
24.	FEET, EXCEPT THAT PUBLIC UTILITY USES SHALL BE EXEMPT FROM MINIMUM LOT
25.	WIDTH REQUIREMENTS.
26.	D. MAXIMUM BUILDING LENGTH: 400 FEET, STAGGERED SO THAT NO
27.	SINGLE FACE EXCEEDS 200 FEET.

E. BUILDING SETBACKS.

1	1. MINIMUM SETBACK FROM ANY LOT LINE OTHER THAN A STREET
2.	RIGHT-OF-WAY LINE OR AN ABUTTING PROPERTY LINE WHICH IS PREDOMINANTLY
3.	RESIDENTIALLY ZONED: TWENTY (20) FEET.
4.	2. MINIMUM SETBACK FROM ANY STREET LINE: THIRTY-FIVE (35)
5.	FEET, OR THE AVERAGE OF THE SETBACKS OF THE ADJACENT STRUCTURES,
6.	WHICHEVER IS MORE.
7.	3. MINIMUM SETBACK IF AN ABUTTING PROPERTY LINE IS
8.	PREDOMINANTLY RESIDENTIALLY ZONED, OTHER THAN A BOUNDARY LINE THAT LIES
9.	WITHIN A STREET: FIFTY (50) FEET.
10.	F. MAXIMUM FLOOR AREA RATIO: 0.50.
11.	G. MAXIMUM BUILDING HEIGHT: TWO STORIES, NOT TO EXCEED 35 FEET
12.	WITH NO SINGLE STORY EXCEEDING A CLEAR HEIGHT OF SIXTEEN (16) FEET
13.	MEASURED FROM FLOOR TO CEILING.
14.	H. BUFFER REQUIREMENTS. IN ADDITION TO THE REQUIREMENTS SET
15.	FORTH IN THE BALTIMORE COUNTY LANDSCAPE MANUAL:
16.	1. THE FOLLOWING BUFFERS, WHICH SHALL NOT BE
17.	ENCROACHED
18.	UPON BY ABOVE GROUND STORMWATER MANAGEMENT OR PARKING, BUT WHICH MAY
19.	BE BROKEN BY THE ENTRANCEWAY SHALL BE PROVIDED:
20.	(A) 1. PROPERTY LINES WHICH ABUT ANY
21.	PROPERTY WHICH IS PREDOMINANTLY RESIDENTIALLY ZONED OR WHICH ABUTS ANY
22.	STREET, MUST HAVE A 20 FOOT LANDSCAPE BUFFER.
23.	(B) 2. PROPERTY LINES WHICH ABUT ANY OTHER
24.	ZONE MUST HAVE A 10 FOOT LANDSCAPE BUFFER.
25.	I. AMENITY OPEN SPACE: A MINIMUM OF SEVEN (7) PERCENT OF THE
26.	INTERIOR OF THE PARKING LOT (NOT INCLUDING SETBACK AND BUFFER AREA
27.	REQUIREMENTS) SHALL BE PERVIOUS LAND AREA IN ASSOCIATION WITH
28	PLANTINGS FOR THE PURPOSE OF THIS SECTION THE INTERIOR AREA OF THE

PARKING LOT DOES NOT INCLUDE PORTIONS TO THE REAR AND SCREENED FROM VIEW, FOR THE USE OF TRUCKS AND SERVICE VEHICLES.

208.5 PERFORMANCE STANDARDS.

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THESE REGULATIONS ARE INTENDED TO ENSURE A HIGH QUALITY

ENVIRONMENT WITH REGARD TO HEALTH, SAFETY, AND AESTHETICS WHICH ARE

COMPATIBLE WITH RESIDENTIAL USES. ESTABLISHMENTS MUST MEET ALL

APPLICABLE STATE AND FEDERAL REQUIREMENTS, AS WELL AS OTHER COUNTY

REQUIREMENTS, INCLUDING THOSE OF THE DEPARTMENTS OF HEALTH, FIRE AND

ENVIRONMENTAL PROTECTION AND RESOURCE MANAGEMENT. THESE AGENCIES SHALL

BE INCLUDED IN THE REVIEW OF ALL SPECIAL EXCEPTION PETITIONS,

DEVELOPMENT PLAN SUBMITTALS AND BUILDING PERMIT APPLICATIONS IN THE

SERVICE EMPLOYMENT ZONE. THE DIRECTORS SHALL MAKE RECOMMENDATIONS TO

THE ZONING COMMISSIONER OR HEARING OFFICER AND SHALL ADVISE IN CASES OF

REPORTED VIOLATIONS OF THESE REQUIREMENTS.

- A. ESTABLISHMENTS MAY NOT CREATE ANY DANGEROUS, INJURIOUS, NOXIOUS OR OTHERWISE OBJECTIONABLE FIRE, ELECTRICAL, EXPLOSIVE, RADIOACTIVE OR OTHER HAZARDOUS CONDITIONS OR EMISSIONS ADVERSELY AFFECTING THE SURROUNDING AREA. THE APPLICANT SHALL INDICATE WHETHER ANY OF THESE CONDITIONS COULD BE CREATED AND HOW THEY WOULD BE MITIGATED.
- 1. EMISSION OF DUST, SWEEPINGS, DIRT OR CINDER INTO THE ATMOSPHERE OR THE DISCHARGE OF LIQUID, SOLID WASTES OR OTHER MATTER INTO WATER RECLAMATION AREAS OR OTHER WATERWAYS.
- 2. ESCAPE OR DISCHARGE OF ANY CHEMICALS, FUMES, ODORS, GASES, VAPORS, ACIDS OR OTHER SUBSTANCE INTO THE ATMOSPHERE WHICH DISCHARGE MAY BE DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF PERSONS OR WHICH MAY BE HARMFUL TO PROPERTY OR VEGETATION,

3. EMANATION OF INTENSE GLARE OR HEAT, OR ELECTROMAGNETIC,
 MICROWAVE, ULTRASONIC, LASER OR OTHER RADIATION WHICH IS DISCERNIBLE BY
 SENSORY PERCEPTION OR BY IMPACT ON THE OPERATION OF MACHINE OR
 INSTRUMENTS EXTERIOR TO THE SITE OR LOT UPON WHICH THE OPERATION IS
 CONDUCTED AS DETERMINED BY THE MARYLAND DEPARTMENT OF ENVIRONMENT.

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- 4. ANY VIBRATION, NOISE, SOUND OR DISTURBANCE WHICH IS OBJECTIONABLE DUE TO INTERMITTENCE, BEAT, FREQUENCY, STRENGTH, SHRILLNESS OR VOLUME.
- B. ALL PERMITTED USES, ACCESSORY ACTIVITIES, AND STORAGE SHALL BE CONFINED WITHIN COMPLETELY ENCLOSED BUILDINGS WITH THE EXCEPTION OF OFF-STREET PARKING SPACES, OFF-STREET LOADING BERTHS, SIGNS AND RECREATIONAL FACILITIES. NO OUTSIDE REPAIR OR MAINTENANCE OF VEHICLES OR EQUIPMENT IS PERMITTED.
- C. NOTWITHSTANDING THE PROVISIONS OF SECTION 307, ALL PARKING AND LOADING AREAS IN A SERVICE EMPLOYMENT ZONE MUST BE PAVED WITH A DURABLE AND DUSTLESS SURFACE AS DEFINED IN SECTION 101.
- D. ANY PARKING SPACE, LOADING SPACE, AISLE OR DRIVEWAY USED BY A COMMERCIAL VEHICLE WITH A GROSS VEHICLE WEIGHT OF 10,000 POUNDS OR MORE, AND ANY DUMPSTER SPACE, MUST BE LOCATED AT LEAST 75 FEET FROM ANY RESIDENTIAL OR R.O. ZONE LINE. TRUCK LOADING AND DUMPSTER SPACES SHALL BE PLACED TO THE REAR OF THE BUILDING, INTERNAL TO THE SITE. IF NOT TOTALLY SCREENED BY OTHER BUILDINGS WHICH ARE PART OF THE PROJECT, TRUCK PARKING AND LOADING AND DUMPSTER AREAS SHALL BE SCREENED.

 THE SCREEN SHALL CONSIST OF AN OPAQUE FENCE, WALL OR BERM NOT LESS THAN SIX FEET IN HEIGHT, IN ASSOCIATION WITH PLANTINGS.
- SEGTION 3: AND BE IT FURTHER ENACTED; that Section 26-282 of Title 26 Planning; Zoning and Subdivision Control; Baltimore County

2.	amendments; to read as follows:
3.	Sec. 26-282: Development in RGG; R-0; 0-1; 0-2; S-E or OF
4.	zone and GR districts:
5.	(a)(1) Bevelopment of property in an R-0; OR S-E zone
6.	shall be appropriate to the specific circumstances of the site;
7.	taking into account surrounding uses; tree preservation; protection
8.	of watercourses and bodies of water from erosion and siltation; and
9.	safety; convenience; and amenity for the neighborhoods;
10.	(2) In determining the appropriateness of class B
11.	office buildings; design elements of proposed buildings shall be
12.	evaluated in relation to existing adjacent or surrounding buildings.
13.	Unless determined otherwise by the director of the office of planning
14.	and zoning to be considered appropriate; new buildings shall be
15.	similar to existing ones in the following respects:
16.	ar Height;
17.	br Bulk and general massing;
18.	c. Hajor divisions or rhythms of the facade;
19.	dr Proportion of openings
20.	(window-wall-relation);
21.	er Roof treatment;
22.	f. Materials, colors, textures;
23.	g: General architectural character:
24.	1. Horizontal or vertical emphasis;
25.	27 Scale;
26.	3. Stylistic features and themes -
27.	porches; colonnades; pediments;

Gode; 1988 Edition; be and it is hereby repealed and re-enacted; with

1. .

1.,	enpolas; cornices; coins; detail;
2.	and ornament;
3.	h: Relation to street;
4.	ir Exterior lighting: Buildings shall not
5.	be lighted on the exterior; and any
6.	lighting provided for safety reasons should
7.	be minimized and directly away from adjoining
8.	residential property
9.	(b) Bevelopment of property in an θ -1, θ -2, S-E or θ T
10.	zone shall be designed to achieve the following objectives:
11.	(1) The development will not produce significant
12.	adverse, environmental effects. The following are among the
13.	matters that must be considered in making this finding:
14.	ar Preservation or appropriate replacement of
15.	trees or other significant vegetation;
16.	br Effects on significant geological formations;
17.	er Changes in grade;
18.	dr Potential erosion, situation, and runoff-
19.	(2) The development will have no significant adverse
20.	impact upon and, to the extent feasible, will generally enhance areas
21.	nearby. In making this finding, the following are among the matters
22.	that must be considered:
23.	ar Landscaping, including the landscaping of parking
24.	areas;
25.	b. The way in which parking areas may be dispersed
26.	on the site; so that each of them will be
27.	relatively small;
28.	cr Besign and placement of signs;

1	d: Outdoor lighting;
2.	er Prospective number of employees;
3.	f. Hours of operation;
4.	gr Present uses near the site;
5.	h. Prospective residential development nearby; and
6.	i: Within OF AND S-E zones; the expected levels
7.	of potential emanations; including but not
8.	limited to smoke; noise; dust; odors; vibration;
9.	glare; and heat; and the means to continuously
10.	control such emanations;
11.	(3) The site will be used with careful regard for
12.	conservation of energy and for the safety and convenience of those who
13.	will work or do business there; those nearby; and the public in general:
14.	In making this finding, the following are among the matters that must
15.	be considered:
16.	ar Number; design; location of automobile and
17.	service entrances to and exits from the site;
18.	b. Layout of parking areas;
19.	c. Besign and location of pedestrian ways and
20.	erossings;
21.	d. Encouragement of transit usage, if the site
22.	will be served by public transit;
23.	er Building mass and orientation; access to light
24.	and air; and microclimate; and
25.	f. Aspects of energy efficiency not included in
26.	the matters listed above:
27.	(4) The use or development will be in accordance with

the purposes of the classification of the zone within which it will be

1. situated; particularly in light of that classification's declaration of 2. findings and statement of legislative policy; and will be in accordance with the purposes of the zoning regulations in general; including the 3. 4. purposes set forth or referred to in title 2 of this Goder (e) Bevelopment of property in an RGG zone and GR district: 5. (1) Bevelopment shall be appropriate to the specific 6. circumstances of the site; taking into account surrounding uses; tree 7. 8. preservation; protection of watercourses and bodies of water from erosion and siltation; protection of groundwater resources; and safety; 9. convenience; and amenity for the surrounding neighborhood; 10. 11. (2) In determining the appropriateness of buildings; design elements of proposed buildings and signs shall be evaluated 12. in relation to existing adjacent or surrounding buildings. New 13. buildings shall be rural in character. Unless determined otherwise 14. by the director of planning; new buildings shall be similar to existing 15. buildings in the following respects: 1.6. 17. ar Height; Bulk and general massing; 18. b: Major divisions or rhythms of the facade; 19. 20. d٠ Proportion of openings; irer; window-to-wall relationships; 21. Roof treatment: e: 22. f-23. Materials; colors; and textures of buildings 24. and signage; in general; natural materials such as stone; brick; woodsiding; shingles; 25.

SECTION 3. AND BE IT FURTHER ENACTED, that Section 26-282(d) be

slate; etc.

26.

1.	and it is hereby added to Title 26 - Planning, Zoning and Subdivision				
2.	Control, Baltimore County Code, 1988, to read as follows:				
3.	Sec. 26-282. Compatibility.				
4.	(D) (1) IN AN S-E ZONE, BUILDINGS SHALL BE MADE COMPATIBLE				
5.	WITH THE STREETSCAPE AND THE LANDSCAPE BY METHODS WHICH REDUCE THE				
6.	LARGE-SCALE VISUAL IMPACT OF BUILDINGS.				
7.	(2) THE PREDOMINANT EXTERIOR MATERIAL ON ANY BUILDING				
8.	SHALL NOT REQUIRE PERIODIC REFINISHING OR MAINTENANCE, INCLUDING BUT				
9.	NOT LIMITED TO PAINTED WOOD, PAINTED METAL SIDING, PRE-FINISHED METAL				
10.	SIDING OR PAINTED MASONRY, NOR SHALL ANY EXTERIOR WALL BE MADE FROM ANY				
11.	UNFINISHED MATERIAL INCLUDING BUT NOT LIMITED TO; RAW WOOD, UNFINISHED				
12.	CONCRETE BLOCK, OR CONCRETE SURFACES. SATISFACTORY PREDOMINANT EXTERIOR				
13.	MATERIALS INCLUDE BRICK, GLASS, ARCHITECTURAL CONCRETE SURFACES,				
14.	DECORATIVE MASONRY UNITS OR STUCCO.				
15.	SECTION 4. AND BE IT FURTHER ENACTED, that this Act shall take				
16.	effect forty-five days after its enactment.				

B04692/BILLS92

BALTIMORE COUNTY, MARYLAND

a body corporate and politic

*
Plaintiff

OF MARYLAND

DISTRICT COURT

IN THE

V.

FOR BALTIMORE COUNTY

TARRY EDGAR KNIGHT

Defendant

Case No. SP1733-91

ORDER

The foregoing action having come before the Court on Plaintiff's Petition for Permanent Injunction, the allegations of which are denied by the Defendant, and the Court having read and considered the same, and the parties, through their respective counsel, having consented to the passage of this Order, it is this 25 day of February, 1992, by the District Court of Maryland

ORDERED, that the Defendant shall cause all areas upon the property which is the subject of this action which are used for parking, maneuvering and/or storage to be paved and maintained with crusher run or other suitable materials in order to provide a dustless surface, and be it further

ORDERED, that the Defendant shall submit written dust control measures to the Plaintiff to govern all areas of the subject property used for parking, maneuvering and/or storage, and be it further

ORDERED that the above acts to be performed by the Defendant shall be completed within ninety (90) days of the date of this Order.

200 TO 100 TO 10

JOHN H. GARMER 4/28/92

CONSENTED TO:
hut the
Lee S. Thomson
Assistant County Attorney
Attorney for the Plaintiff
2/3/92
Date
Lloyd J. Hammond Attorney for the Defendant

Date

BALTIMORE COUNTY, MARYLAND Inter-Office Correspondence

T0;

File

January 17, 1991

FROM:

Gregory J. Franzoni, Sr. #974.

SUBJECT: ADMINISTRATIVE HEARING LARRY E. KNIGHT, Inc.

On Thursday, January 17, 1991 at 9:30 AM, the principals in enforcement case involving Larry E. Knight, Inc. met at the offices of the Air Management Administration located at 2500 Broening Highway, Baltimore, Maryland 21224 for the purpose of convening an Administrative Hearing. Present from the State of Maryland were Assistant Attorney General Jeffrey E. Howard, Michael J. Caughlin, and Steven G. Lang. Representing Baltimore County were Gregory J. Franzoni, Sr. and S. David Ross. The company was represented by Larry E. Knight, Sr., Larry E. Knight, Jr, and their attorney, Mr. Gitter.

Following several conferences among attorneys and the Knights, the company agreed to settle the case for \$1500 vs. \$3000 assessed, payable in three (3) monthly installments commencing in February, 1991. The hearing officer read the settlement into the official hearing record and indicated that a full hearing would be convened should Mr. Knight default on any of the payments. Following this statement, the hearing was adjourned.

GJF:pms

MARYLAND DEPARTMENT OF THE ENVIRONMENT

MEMORANDUM

Through: George P. Ferreri Frank D. Whitehead

Copies

To Judge Cornelia Bright-Gordon From

Michael Caughlin

Date 0/24/90

Subject Request for a Contested Case Hearing Regarding ACP 90-48A

The Air Management Administration would like to schedule a contested case hearing, as provided by the State Government Article, Section 10-201 et. seq., Annotated Code of Maryland, relating to the assessment of ACP 90-48A against Larry E. Knight, Inc.

The basis for this penalty is outlined in the attached Notices of Proposed and Assessed Civil Penalty No. ACP 90-48A. The response from Larry E. Knight, President of Larry E. Knight, Inc., is also attached.

The AMA would appreciate your efforts to schedule this hearing at your earliest opportunity.

Thank you for your assistance in this matter.

MC/ec

Enclosures

cc: Jeffrey E. Howard
Brooks Stafford, Baltimore County Bureau of Air Quality Management
Dorothy Guy

NOV 5 1990

State of Maryland Fil.

DEPARTMENT OF THE ENVIRONMENT

2500 Broening Highway, Baltimore, Maryland 21224
Area Code 301 • 631- 3255

William Donald Schaefer Governor Martin W. Walsh, Jr. Secretary

I have the war and and the same of

September 4, 1990

CERTIFIED MAIL

Mr. Larry E. Knight
Larry E. Knight, Inc.
12200 Glynowings Drive
Reisterstown MD 21136

Dear Mr. Knight:

Subject:

Notice of Assessed Civil Penalty No. ACP 90-48A

RE:

Failure to employ reasonable measures to prevent particulate

matter from becoming airborne

The Air Management Administration (AMA) of the Department of the Environment has the responsibility to implement and enforce the air pollution laws and regulations of the State of Maryland, including §2-610.1 of the Environment Article, Annotated Code of Maryland. This section authorizes the Department of the Environment to assess an administrative penalty of up to \$1,000 per day of violation for violation of the State's air quality laws and regulations. Larry E. Knight, Inc. (the "Company") owns and operates a plant located at 12200 Glynowings Drive, Reisterstown, Maryland. The plant is subject to the Maryland Air Quality Act, Environment Article, §2-101 et seq. and the Maryland regulations governing the Control of Air Pollution.

The specific regulation that the Company is charged with violating is COMAR 26.11.06.03D, which generally requires that a person may not cause or permit any material to be handled, transported, or stored, or a building, its appurtenances, or a road to be used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate material from becoming airborne.

This regulation was violated in the following manner: Inspectors from the Baltimore County Department of Environmental Protection and Resource Management, Bureau of Air Quality Management, observed violations of the above regulation on three (3) separate occasions during the past seven (7) months. Notices of Violation of COMAR 26.11.06.03 D were issued for October 27, 1989, February 8, 1990, and April 9, 1990 for failing to take reasonable precautions to prevent particulate matter generated by transportation of materials over the Company's roadway from becoming airborne.

Mr. Larry E. Knight September 4, 1990 Page 2

Based on the above facts, the AMA has determined that the Company has violated Maryland law regarding air pollution control. The Company is, therefore, subject to assessment of an administrative penalty under Environment Article \$2-610.1. On July 9, 1990, the AMA sent a Notice of Proposed Civil Penalty No. ACP 90-48 to the Company, indicating the AMA's intent to assess an administrative penalty against the Company. Pursuant to \$2-610.1(b), the Company was given an opportunity for an informal meeting with AMA. That meeting was never held due to repeated cancellations and delays by the Company. The AMA has now determined to proceed with the administrative Penalty assessment against the Company.

The penalty that the Air Management Administration is seeking in this case is \$3,000, which is based on the factors listed in \$2-610.1(c) (iii) as applied to the facts of this case. Before this penalty can actually be assessed, the Company is entitled, under Environment Article \$2-610.1, to a hearing.

You may request a hearing before the Department. Any request must be made within 20 days of your receipt of this letter. If you do not request one, a hearing may be scheduled before an Administrative Law Judge of the Office of Administrative Hearings. This hearing will be a contested case, as provided by the State Government Article, \$10-201, et seq., Annotated Code of Maryland.

If you do not request a hearing within 20 days, or fail to appear at a scheduled hearing, this Notice then becomes a final order of the Department of the Environment and the entire \$3,000 penalty must be paid immediately. Failure to pay may then subject your Company to judicial collection procedures, including a lien on your property for the Entire \$3,000 plus interest and costs.

Any questions concerning this matter should be directed to Mr. Michael J. Caughlin, Chief, Division of Field Services and Noise Control, at (301) 631-3200.

Sincerely,

George 🗹 Ferreri

Director

Air Management Administration

GPF:jlg

cc: Martin W. Walsh, Jr.

Richard Pecora

Jeffrey Howard, Assistant Attorney General

Baltimore County Department of Environmental Protection and Resource

Management, Mr. Brooks Stafford

Michael Caughlin

Dorothy Guy

Gary Reisman



DEPARTMENT OF THE ENVIRONMENT

2500 Broening Highway, Baltimore, Maryland 21224

Area Code 301 . 631- 3255

William Donald Schaefer

Martin W. Waish, Jr. Secretary

September 4, 1990

CERTIFIED MAIL

Mr. Larry E. Knight Larry E. Knight, Inc. 12200 Glynowings Drive Reisterstown MD 21136

Dear Mr. Knight:

4 字 20BH 7 (B) 第7(TB)(A

SUBJECT:

Notice of Assessed Civil Penalty No. ACP 90-48A

RE:

Failure to take reasonable measures to prevent particulate

matter from becoming airborne.

The Air Management Administration, in response to your request for an informal meeting to discuss the circumstances relating to Notice of Proposed Civil Penalty No. ACP 90-48, attempted twice to schedule such a meeting with your Company. On both occasions, these meetings were cancelled by the Company. On the second occasion, which occurred on August 17, 1990, the meeting was cancelled by one of your secretaries less that two hours before the time it was scheduled. The only explanation provided was that the necessary Company representative was out of town.

Neither you, or any other employee of your Company, ever called back to explain why the meeting had to be cancelled on such short notice. The Company has made no effort to contact this office in an attempt to reschedule the aforementioned meeting.

Consequently, the Department has decided to proceed with the assessment of this civil penalty.

Sincerely,

George P. Ferreri

Director

Air Management Administration

GPF: jlg

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cc: Richard Pecora

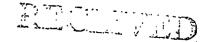
Larry E. Knight, Inc.

PRECAST & PRESTRESS CONCRETE PRODUCTS

P.O. BOY 187

P.O. Box 187 12200 GLYNOWINGS DRIVE GLYNOON, MARYLAND 21071

301-833-7800



September 13, 1990

SEP 1- 1990

AIR MANAGEMENTS
ADMINISTRATION

Department of the Environment Air Management Administration 2500 Broening Highway Baltimore, MD 21224

ATTN: George P. Ferreri

SUBJ: Notice of Assessed Civil Penalty No. ACP 90-48A

Dear Mr. Ferreri,

As per your letter of 9/4/90, we are writing to request a hearing. We regret that both informal meetings with your office were cancelled, however, both cancellations were due to circumstances beyond our control. As with the meeting that had been scheduled for 8/17/90 and cancelled just two hours before, the principal officer, Larry E. Knight, was called out of town on a business emergency. Since the problems precipitated by this emergency would be greater and more widespread than any caused by failure to keep the meeting, Mr. Knight left town to deal with the situation.

Once again, we apologize for both cancellations and are awaiting our hearing date. If you have any questions, please do not hesitate to contact our office.

Very truly yours,

LARRY E. KNIGHT, INC.

Larry E. Knight

Fresident 10

_ LEK/tof....

MEMORANDUM

Copies

Richard Pecora

То	Martin W.	Walsh, Jr.	From George	P. Ferreri	Date 09/04/90
Subject_	Notice of	Assessed Ci-	vil Penalty No.	90-48A	

RE: Larry E. Knight, Inc. -- Failure to take reasonable precautions to prevent particulate matter from becoming airborne

This memo is to inform you that Air Management has assessed a civil penalty of \$3,000 against Larry E.Knight, Inc., a concrete products plant in Resiterstown MD.

This penalty is a result of three violations during the past seven months, wherein the Company failed to take reasonable precautions to prevent fugitive dust from the transportation of materials over the Company's roadway.

The Company was given an opportunity for an informal meeting with Air Management after they were notified that we intended to assess this penalty. The Company cancelled scheduled meetings; in one case, less than two hours before the meeting was due to begin. The Company did not attempt to reschedule the meetings.

GPF:jlg

Enclosure

cc: Richard Pecora

NOV 5 1990

AIR PELALITOR INTELLIG

Petitioner's Ex. 1

MARCH 20, 1995

TO WHOM THIS MAY CONCERN,

Jement Louro

LARRY KNIGHT HAS SHOWN ME HIS ZONING PROPOSAL FROM SE TO MLIN,
WHICH HE FROMERLY HAD I HAVE NO OPPOSITION TO HIS REQUEST.

THANK YOU,

Y. W. .

Till I

LARRY E. KNIGHT, INC. P.O. BOX 187 GLYNDON, MARYLAND 21071 410-833-7800 Fax: 410-833-4117

April 5, 1993

Mr. Jim Gede 24 West Pennsylvania Avenue Towson, Maryland 21204

Dear Jim,

Several months have passed away, many phone calls and no action from you. Jack Dillion of the planning office said you never spoke to him or came to any meeting. He said he never knew that we did not like his recommendation.

After a call to Dutch he set a meeting with Jack Dillion & Mr. Fields & Jim Keelty and myself for April 6, 1993. They are suppose to try and help me get zoning straighten out.

You took my money for this zoning case and did not represent me. If this is true please return the fee of One Thousand Five Hundered (\$ 1,500.00) Dollars you charged me.

Sincerely yours,

LARRY E. KNIGHT, INC.

Larry E. Knight President

LEK.dls Enclosure

ORIGINAL

1	IN THE MATTER OF *	k	BEFORE THE
2	THE APPLICATION OF *	k	COUNTY BOARD OF APPEALS
3	LARRY E. KNIGHT, PETITIONER *	k	OF
4	FOR ZONING RECLASSIFICATION	*	BALTIMORE COUNTY
5	FROM S.E. and D.R. 3.5 to	*	Case No. R-95-137
6	M.L I.M.	*	March 22, 1995
7	(12200 GLYNOWINGS DRIVE)	*	
8	* *	*	* *
9	The above-entitled	mai	ter came on for hearing
10	before the County Board of A	.ppe	als of Baltimore County at
11	the Old Courthouse, 400 Wash	ing	ton Avenue, Towson,
12	Maryland 21204 at 10 o'clock	. a.:	m., March 22, 1995.
13	* * *	•	* *
14			
15			
16			
17			
18			
19			
20	Reported by:		
กา	C F Deatt		

IN THE MATTER OF

THE APPLICATION OF

LARRY E. KNIGHT -PETITIONER

FOR A ZONING RECLASSIFICATION

FROM S.E. AND D.R. 3.5 TO M.L.-I.M.*

ON PROPERTY LOCATED ON THE SOUTHWEST SIDE GLYNOWINGS DRIVE,

*
OPPOSITE ST. GEORGES STATION ROAD;

ALSO WEST SIDE TIMBER GROVE ROAD

*
(12200 GLYNOWINGS DRIVE)

4TH ELECTION DISTRICT

*
3RD COUNCILMANIC DISTRICT

BEFORE THE

* COUNTY BOARD OF APPEALS

OF

BALTIMORE COUNTY

CASE NO. R-95-137

OPINION

before the Board Petition This case comes on for Reclassification filed by the property owner, Larry E. Knight, requesting that his property's zoning be reclassified from S.E. and The subject property is located on the D.R. 3.5 to M.L.-I.M. southwest side of Glynowings Drive, across from St. Georges Station Road in the Reisterstown/Owings Mills section of Baltimore County, in the Third Councilmanic District. The site is approximately 15 acres and is currently operating as a concrete manufacturing plant.

By way of background, the evidence established that the subject site was zoned M.L.-I.M. in 1976. In 1984, under the Comprehensive Zoning Map Process, the Petitioner requested that the property's zoning be changed from M.L.-I.M. to D.R. 16. The County Council retained the M.L.-I.M. zoning. In the 1992 Comprehensive Map Process, the Petitioner again sought rezoning of the property to D.R. 16. The County Council, consistent with the recommendation of the Office of Planning & Zoning and the Planning Board, zoned the property S.E., a new zoning classification established by the Council to permit development of general

offices, related business uses, and small, light industrial uses. Under Section 208 of the <u>Baltimore County Zoning Regulations</u>, development of buildings and types of uses in an S.E. zone are restricted to insure compatibility with surrounding residential uses.

At the hearing before this Board, the Petitioner presented testimony that the property owner, in 1992, had a prospective buyer who wanted to develop the property, and for this reason filed a Petition for Reclassification for zoning review under the Comprehensive Map Process, requesting D.R. 16 zoning. At the time of Petitioner's filing, the subject property was zoned M.L.-I.M. The Petitioner testified that it was his opinion that the attorney he engaged was taking care of the matter and overseeing his requested zoning change. The County Council zoned the property S.E.

The issue for this Board to first consider is whether the County Council committed error when it rezoned the subject property S.E. under the Comprehensive Map Process in 1992.

People's Counsel offered the testimony of John Dillon, Area Planner for Baltimore County for the Third Councilmanic District at the time of the map process in 1992. He testified that the Petitioner filed his request for zoning change and that he did a field visit to the site on three separate occasions, two of which he was accompanied by the local councilman. He indicated to the Board that there appeared to be no activity at the site, and that during the process he had no contact with Mr. Knight nor his

attorney. Mr. Dillon testified that it was his impression that the Petitioner was seeking to develop the site residentially. In his opinion, the present use of the property as a concrete manufacturing plant was incompatible with the surrounding area. He stated that the appropriate zoning classification for the site is S.E., and that the concrete business, as it was ongoing, is protected under Bill 124-91. When asked whether M.L. zoning would be appropriate, it was his testimony that this classification allowed for too many inappropriate uses, taking into consideration the surrounding area.

The Board is persuaded by the testimony of Mr. Dillon and the report by the Planning Board for Baltimore County dated January 31, 1995, as well as the evidence and testimony presented, that no error or mistake was committed by the County Council when it zoned the subject property S.E. and D.R. 3.5 in 1992. The law is well-settled that the County Council in this process is afforded the presumption of validity. The expert testimony of Mr. Dillon supports the zoning determination made by the County Council which is compatible with surrounding residential areas. This is further pointed out in the Planning Board Report.

In considering petitions for reclassification, this Board must afford to the County Council "a strong presumption of correctness" and the burden is upon the Petitioner to present "strong evidence of error" committed in the zoning legislation. As has been pointed out by the courts, the task of a petitioner for a zoning reclassification "is manifestly a difficult one." Stratakis v.

Beachamp, 268 Md. 643, p. 653 (1973)

Having given due consideration to the evidence and testimony, this Board finds that there is no zoning mistake in this case. Without any error in the map process, the Petitioner's request for reclassification must be denied, and it is recommended that the matter be deferred to the next Comprehensive Map Process.

ORDER

IT IS THEREFORE this _4th day of _April _____, 1995 by the County Board of Appeals of Baltimore County

ORDERED that the Petition for Reclassification from S.E. and D.R. 3.5 to M.L.-I.M. be and is hereby DENIED.

Any petition for judicial review from this decision must be made in accordance with Rules 7-201 through 7-210 of the Maryland Rules of Procedure.

COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY

Michael B. Sauer, Acting Chairman

Kristine K Howanski

Harry E/Buchheister, Jr.

- 9A & 9B -Photographs of site and surroundings (Nos. 1-20) (IN CBA CLOSET)
- 9C -List of Photographic Exhibits
- 10 -Height and Area Regulations Chart (handwritten)
- 11 -Interoffice Correspondence to Planning Board 4-24-92

The above exhibits are hereby forwarded with the exception of Petitioner's Exhibit Nos. 9A and 9B which are of an unwieldy or bulky nature and will be retained in the Board of Appeals' office and upon request of the parties or the Court will be transmitted to the Court by whomever institutes the request.

Respectfully submitted,

Charlotte E. Radcliffe

Legal Secretary

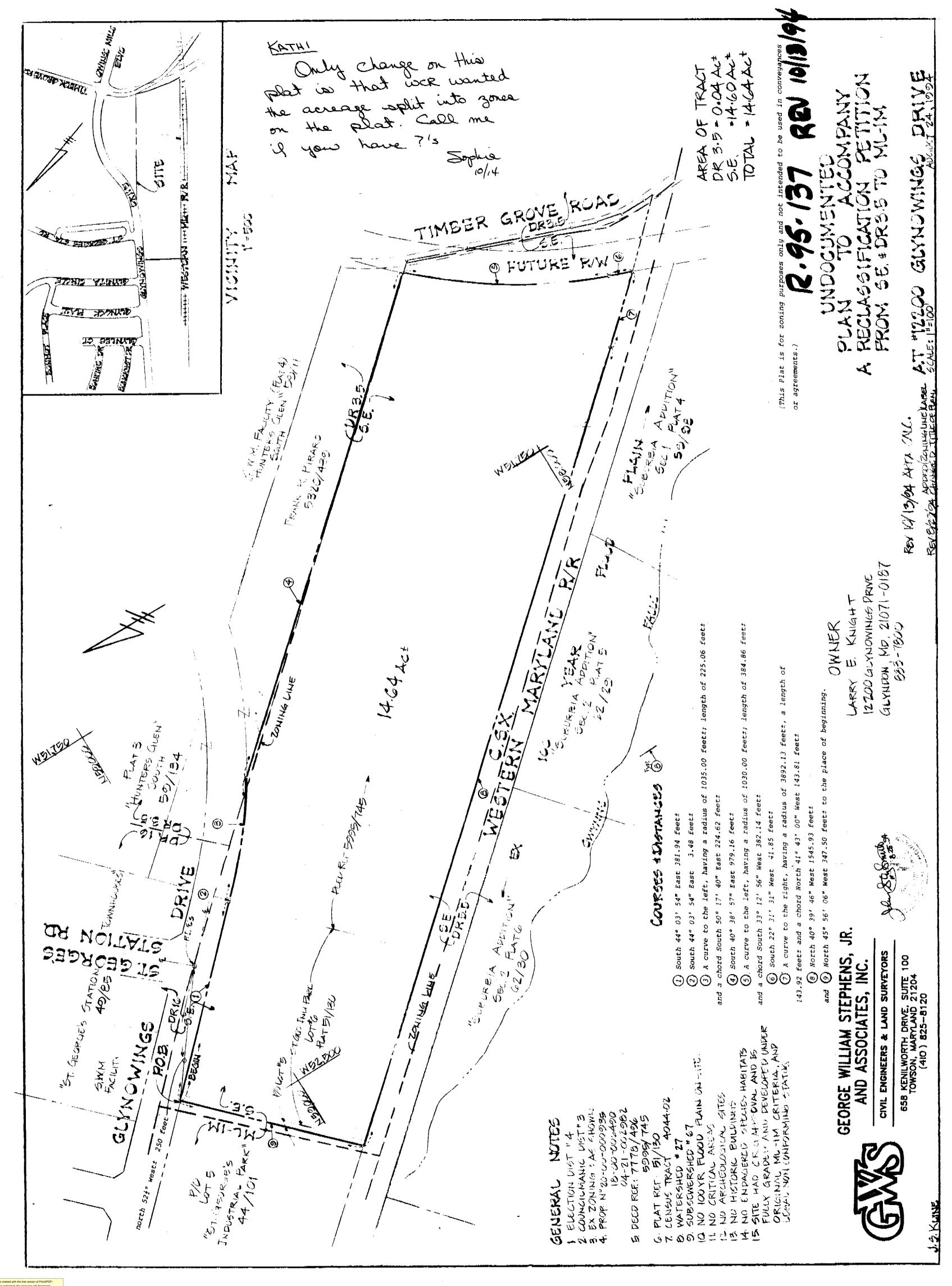
County Board of Appeals of Baltimore County, Room 49, Basement - Old Courthouse 400 Washington Avenue

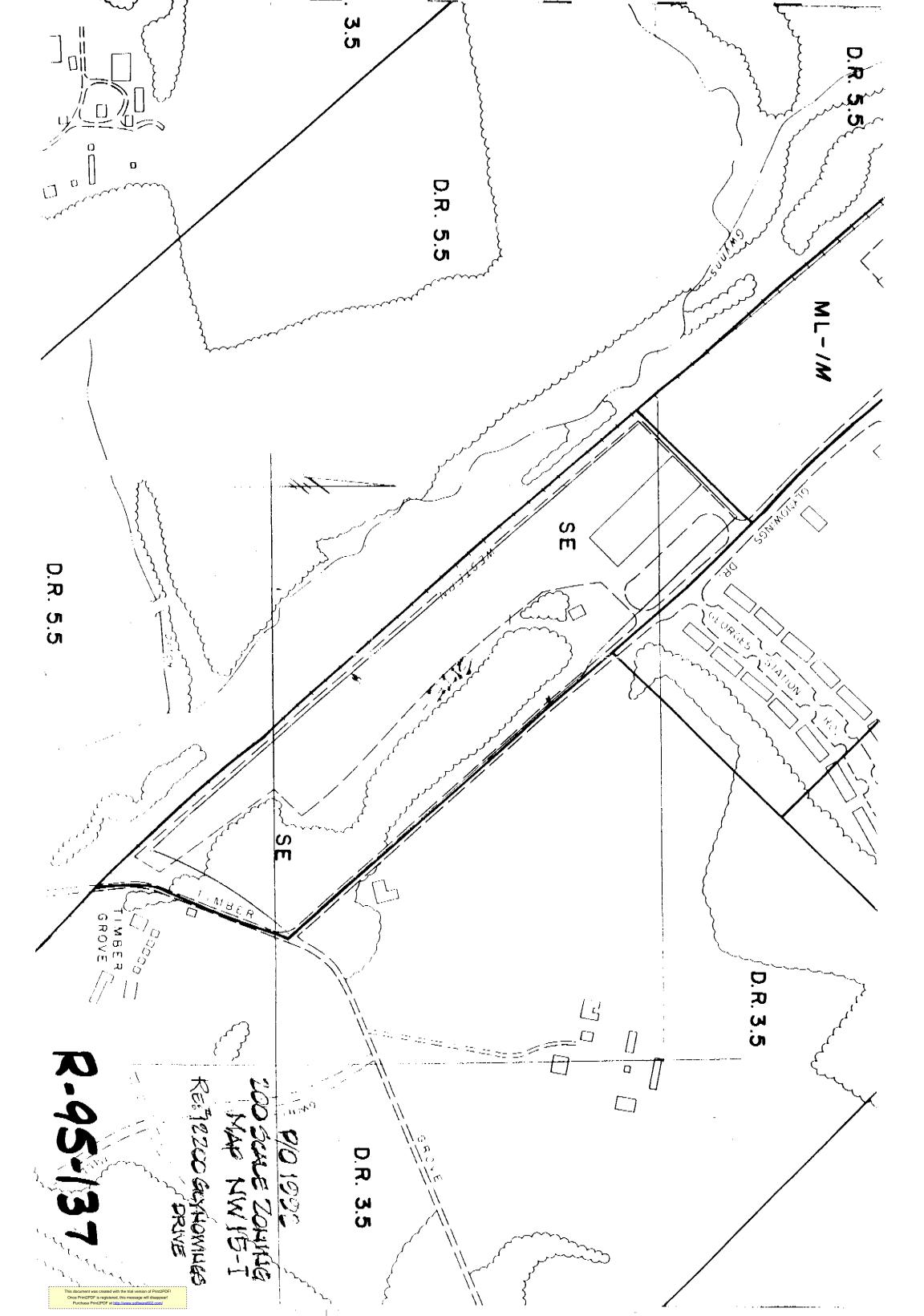
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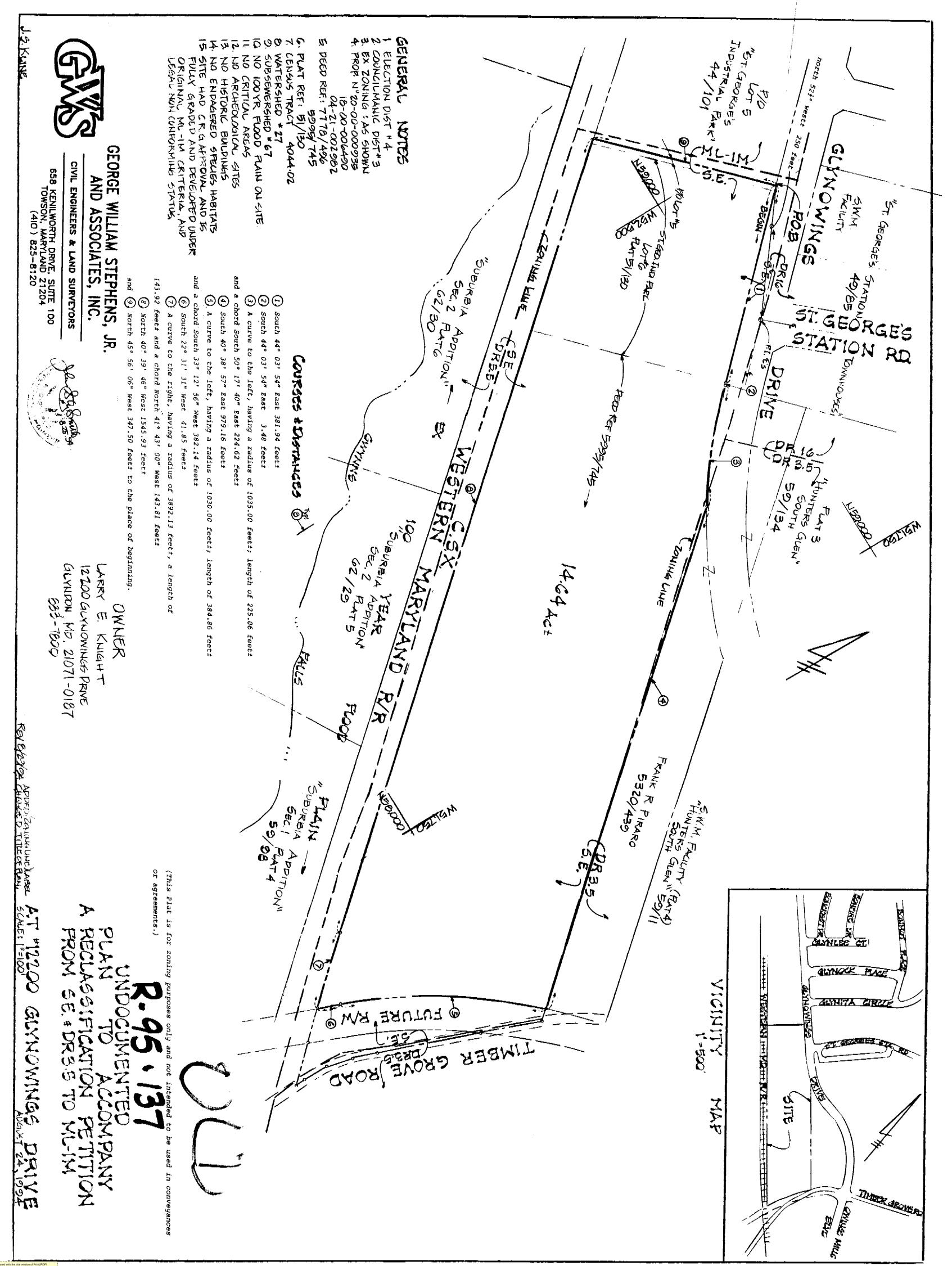
cc: Michael T. Wyatt, Esquire

Larry E. Knight

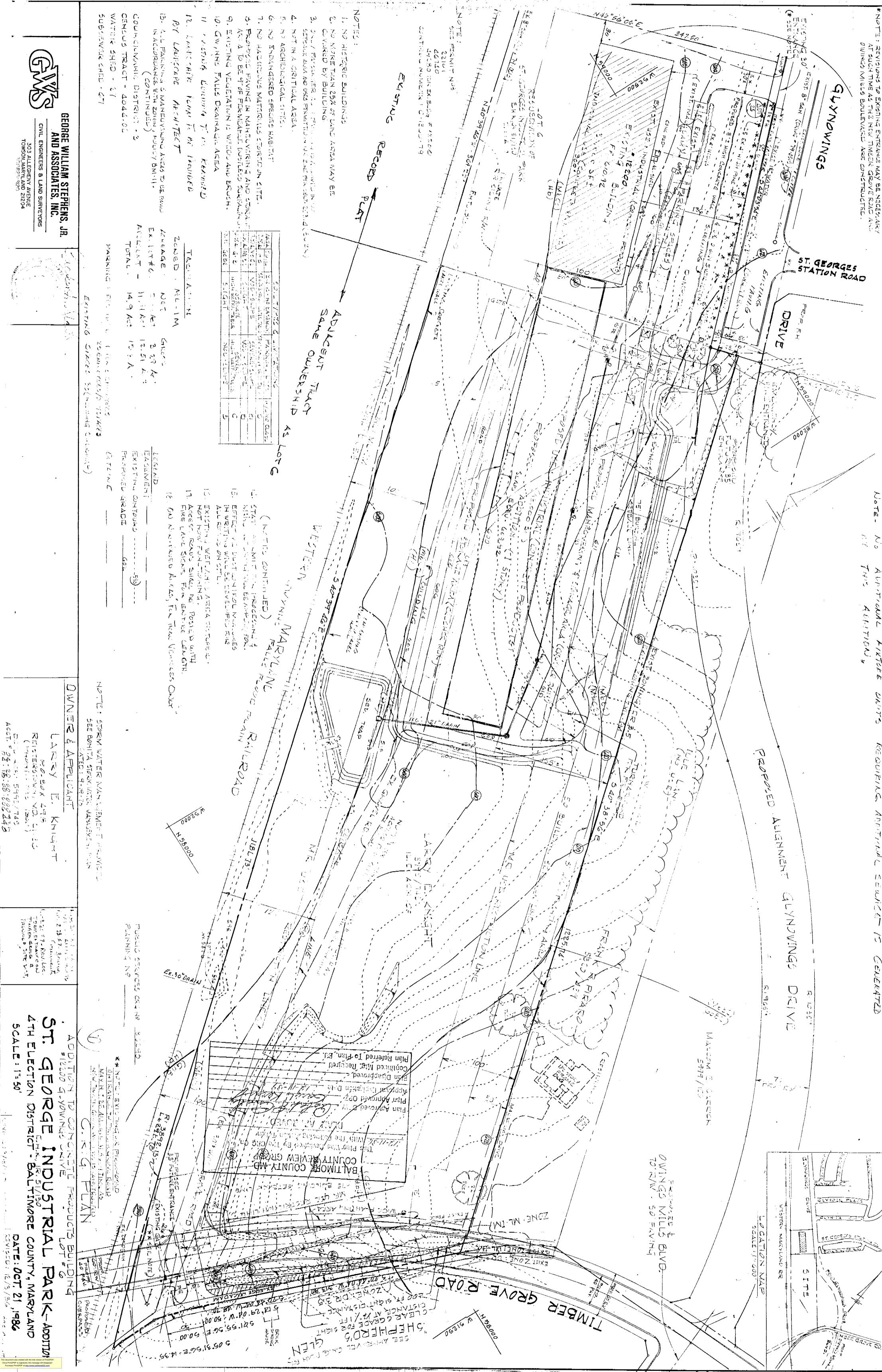
People's Counsel for Baltimore County



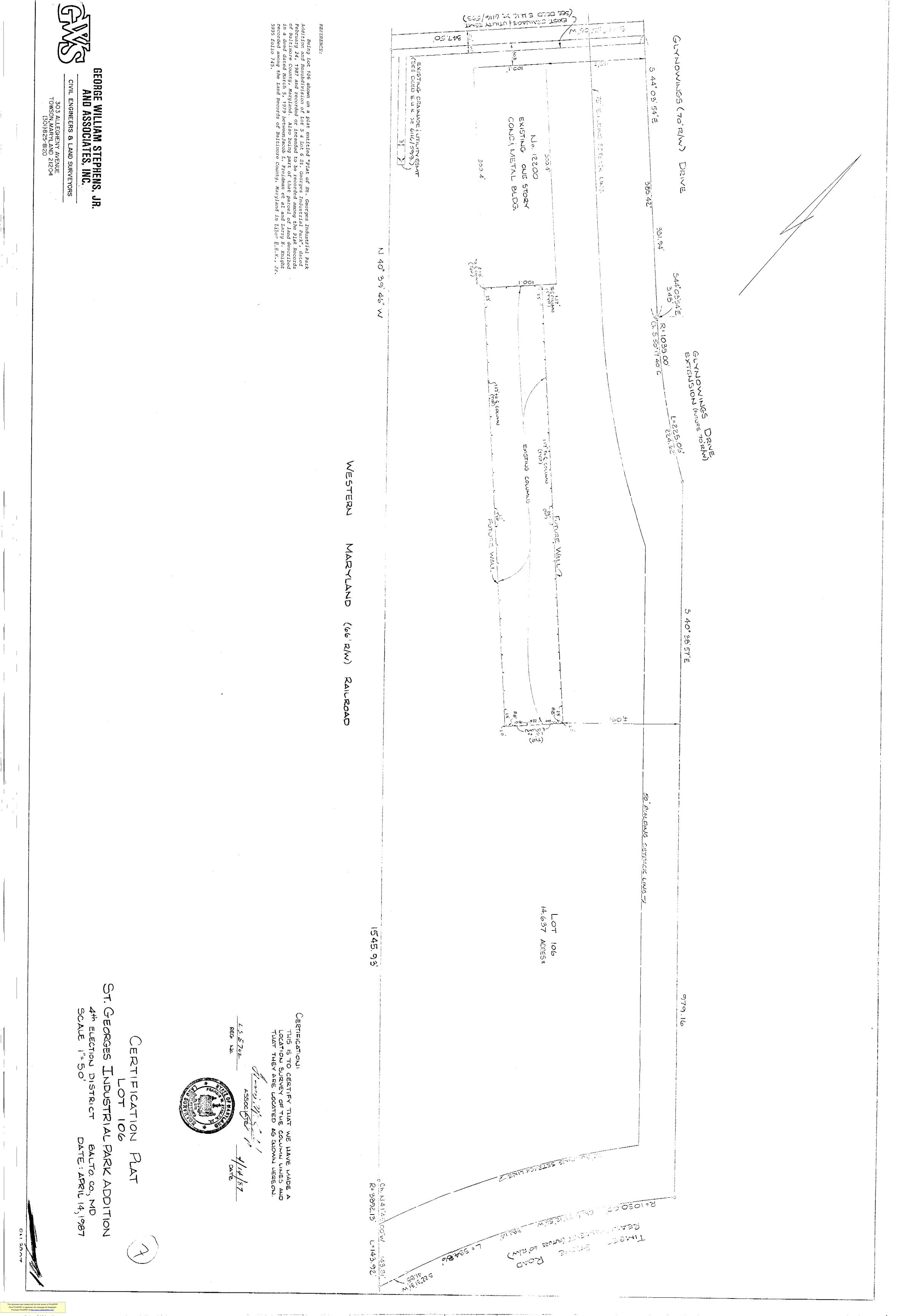


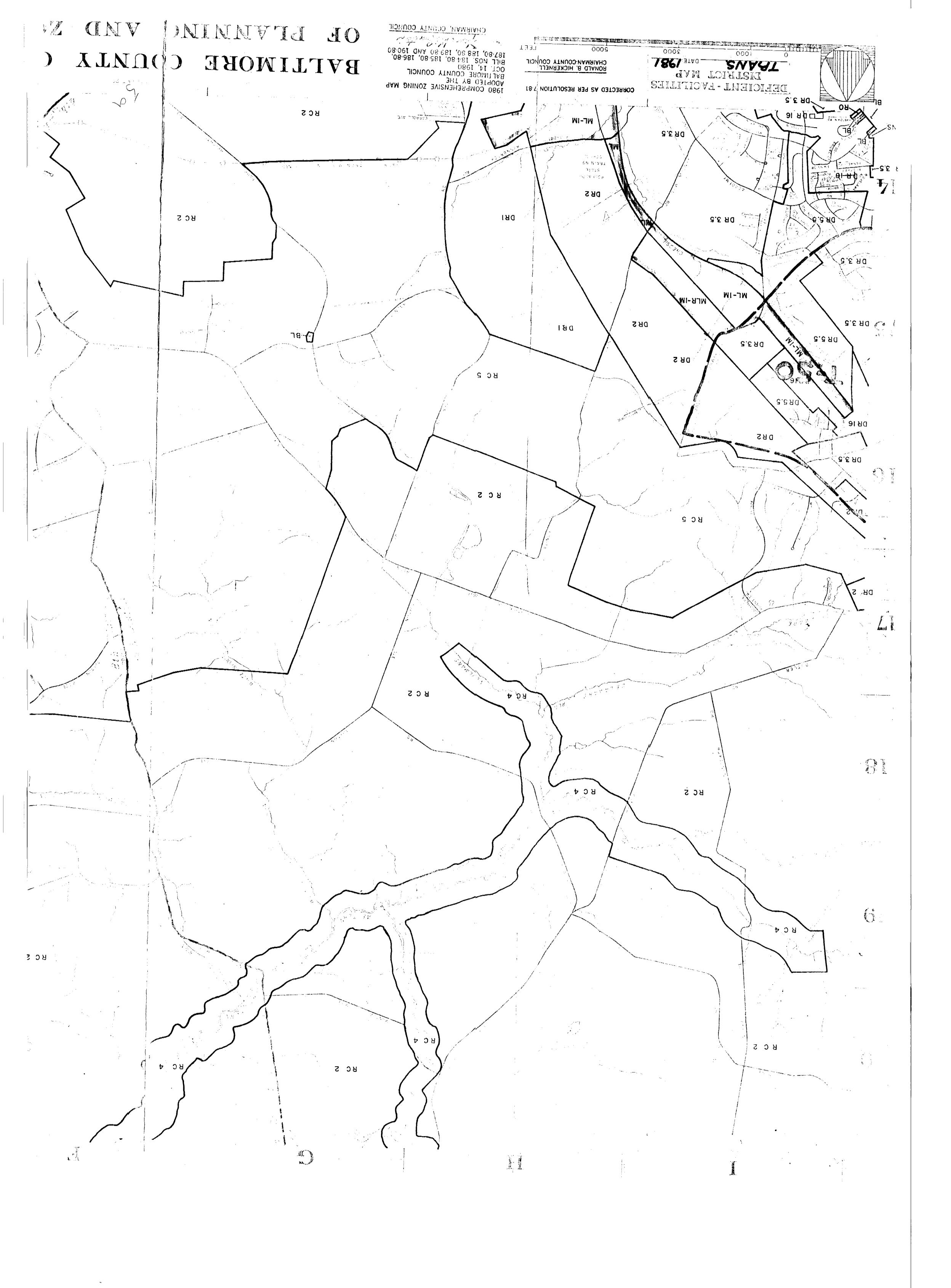


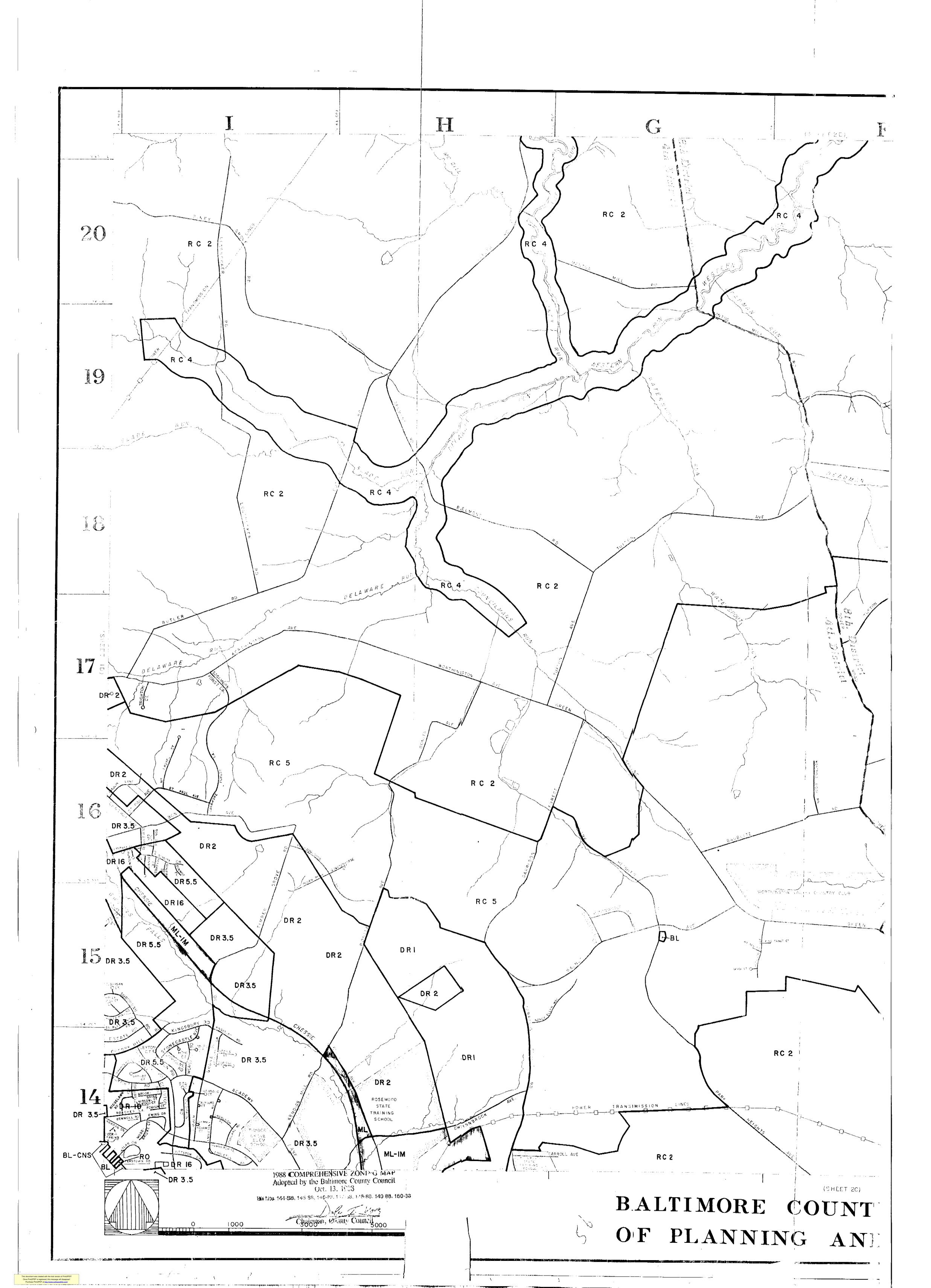
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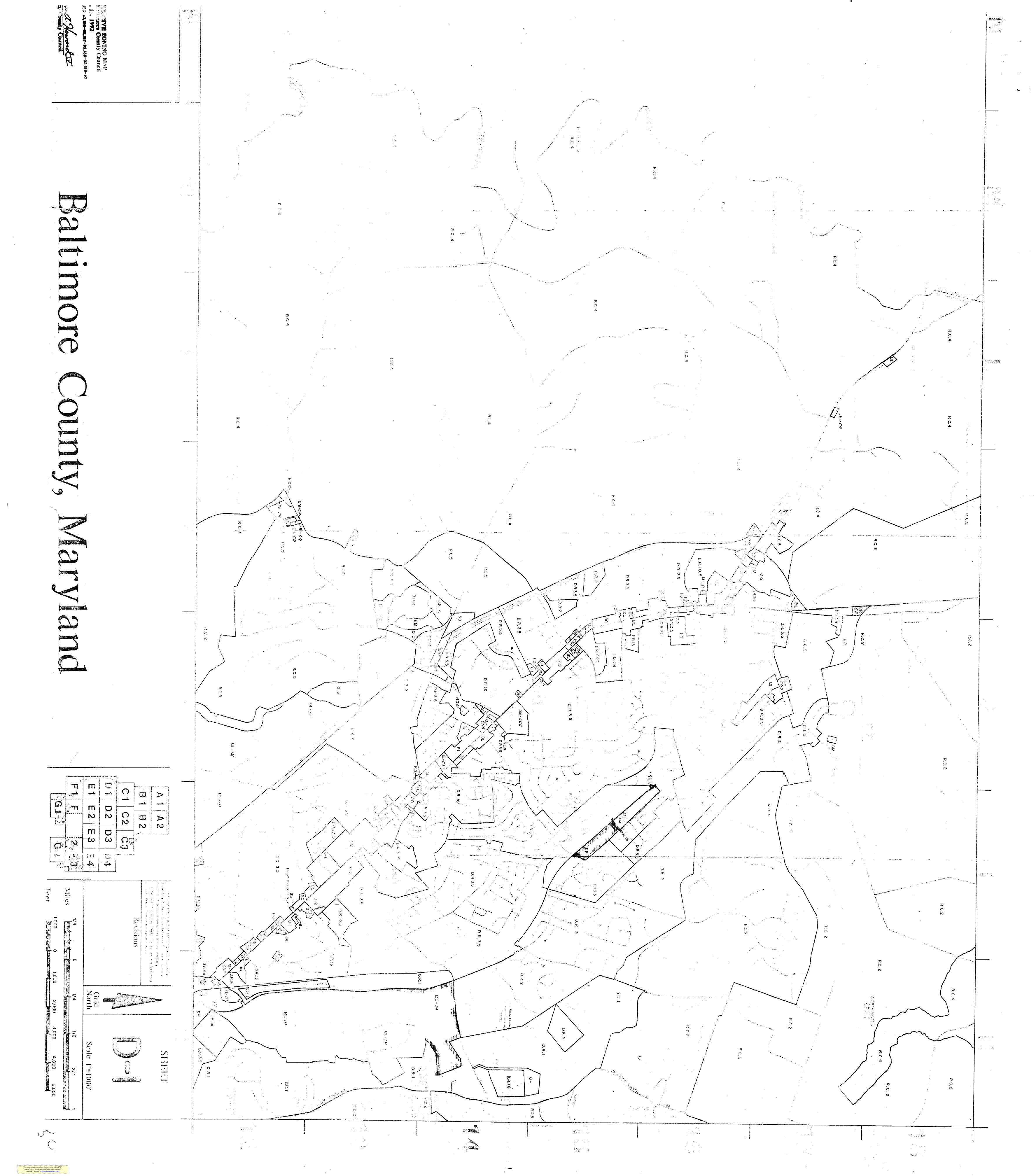


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COUNTY, MARYLAND

LEGEND

APRIL 1991 PHOTO



LEGEND

1. GREEN SPRING RD
2. BONITA AVE
3. GARRISON
FOREST RD

4. PARK HEIGHTS
AVENUE
5. WALNUT AVE
6. TIMBER GROVE RE

APRIL 1988 PHCTO





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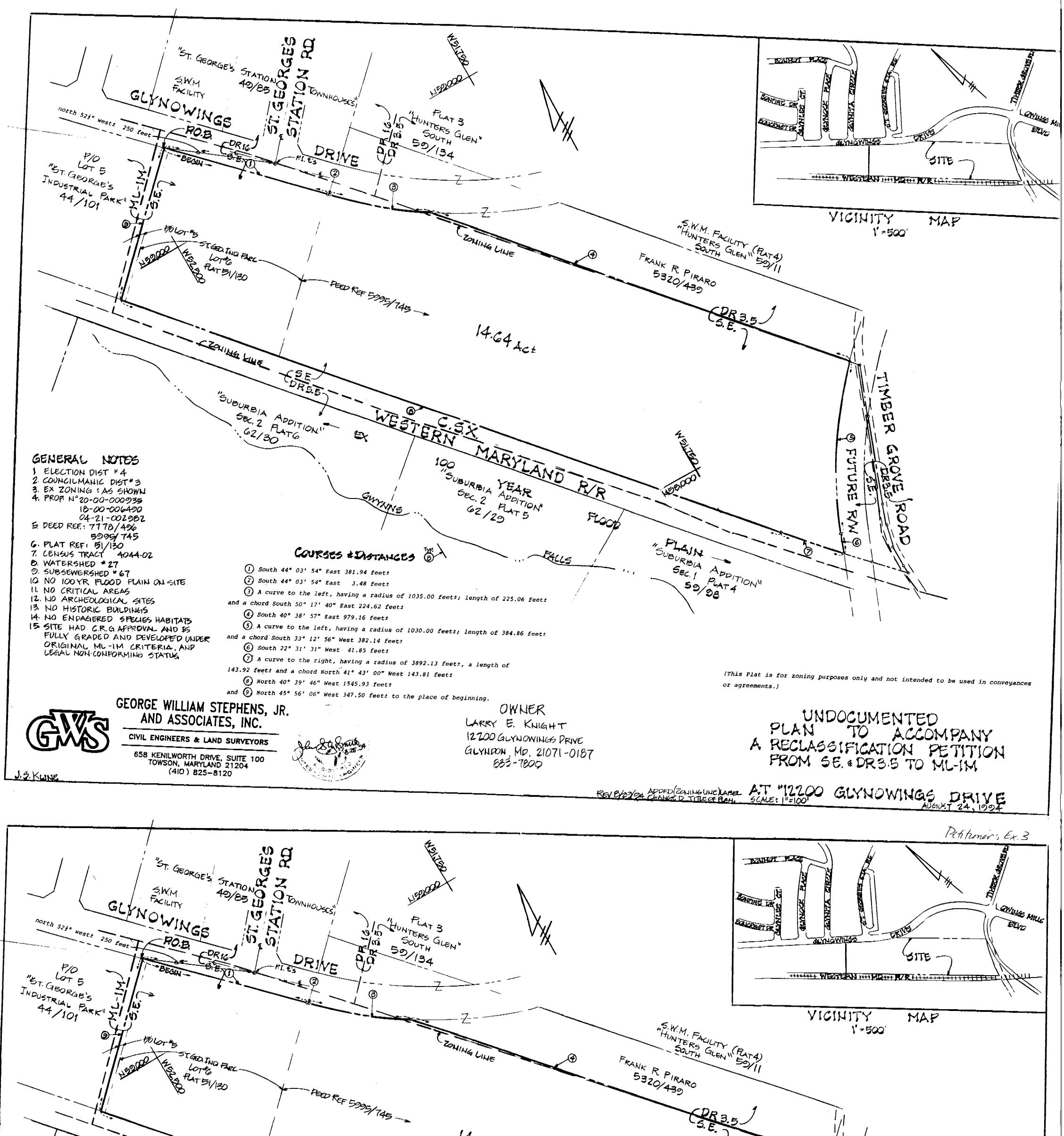
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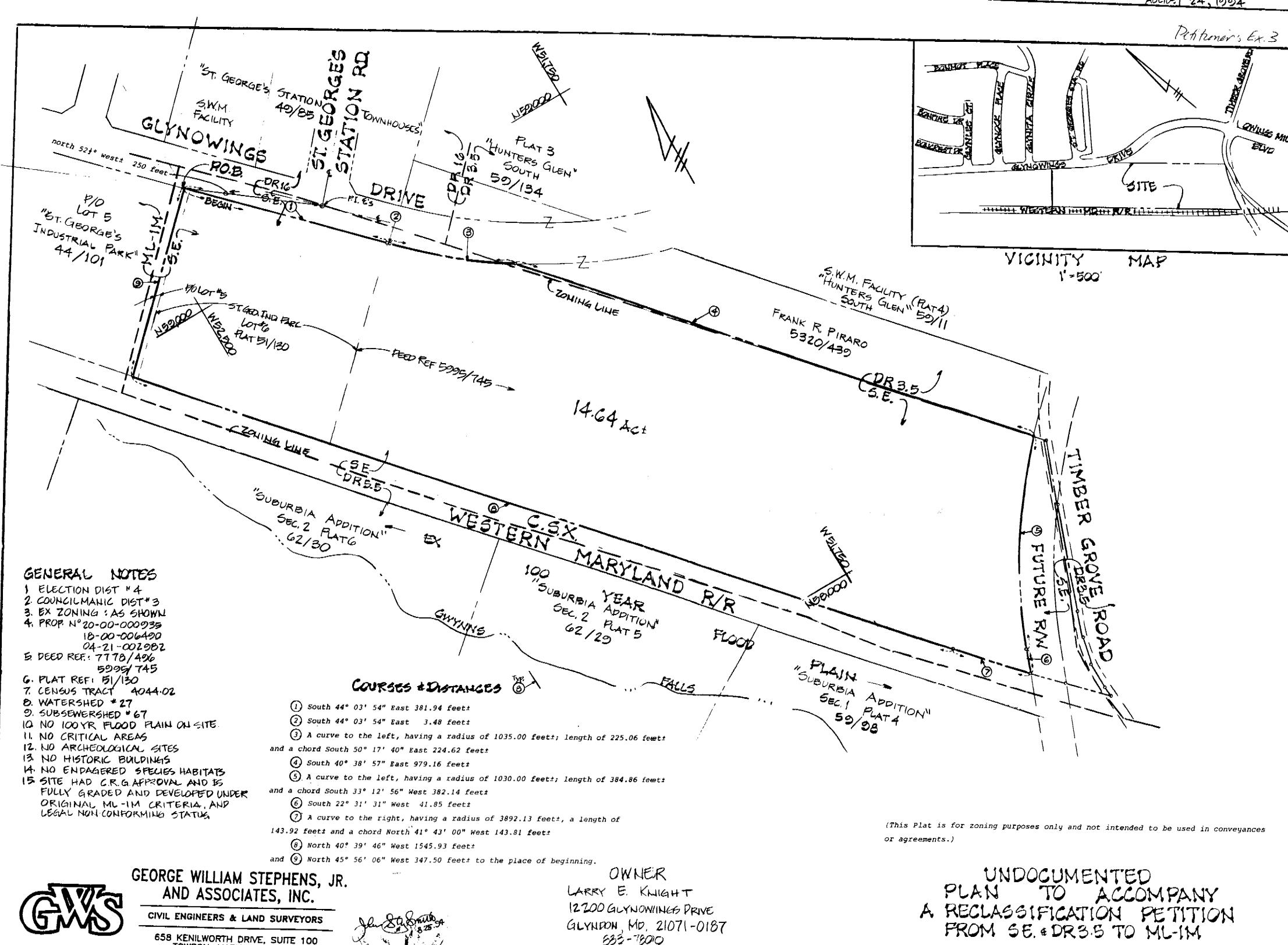
PHOTOGRAPHY

TIMBER GROVE

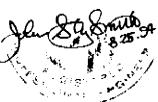
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Pohiner's Ex





658 KENILWORTH DRIVE, SUITE 100 TOWSON, MARYLAND 21204 (410) 825-8120



GLYNDON, MD. 21071-0187 835-78010

REVERSION APDEDIZANING UNE LABOR A.T #12200 GLYNOWINGS DRIVE REVERSION SCALE: 1"=100" GLYNOWINGS DRIVE AUGUST 24, 1994